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# **EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)**

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## **ANSWERS TO THE QUESTIONNAIRE EUROPEAN CONVENTION ON THE COMPENSATION OF VICTIMS OF VIOLENT CRIMES, ETS No 116**

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Document prepared by the CDPC Secretariat  
Directorate General I – Human Rights and Rule of Law

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## INTRODUCTION

At the 71<sup>st</sup> plenary meeting of the CDPC (29 November – 1 December 2016), it was decided to hold a discussion on the issue of compensation to victims and to draft a questionnaire directed to the CDPC delegations. The replies to the questionnaire gathered from member States will constitute the basis for an analysis by the CDPC, to be sent to the Committee of Ministers of the Council of Europe.

The aim of this questionnaire is threefold. The first objective is to gather information on the implementation of the Convention and the practical difficulties related to its application. With regard to the need to ensure access to justice for victims, a particular dimension of this objective is to find out which assistance is given to applicants and potential applicants of compensation.

The second aim is to identify the specific problems related to victims of cross-border victimisation.

The questionnaire is finally intended to gather views from the member states about how the implementation of the Convention could be improved.

## ANDORRA (n'est pas partie à la Convention)

### QUESTIONS

16. Votre gouvernement envisage-t-il de ratifier la Convention ?	Le gouvernement d'Andorre n'envisage pas pour l'instant la signature de la Convention.
17. Une législation relative à l'indemnisation des victimes d'infractions violentes par l'Etat a-t-elle été adoptée? Est-elle disponible en anglais?	<p>Dans notre système il n'existe pas de législation spécifique concernant l'indemnisation des victimes d'infractions violentes par l'État. Cependant, il est à noter que pour appliquer la Convention du Conseil de l'Europe sur la lutte contre la traite des êtres humains adoptée à Varsovie en 2005, notre Parlement a récemment approuvé la Loi 9/2017, du 25 mai, sur les mesures pour lutter contre la traite des êtres humains et protéger ses victimes, qui prévoit certains avantages financiers temporaires qui sont accordés par l'État aux victimes de ces crimes. Ceux-ci sont destinés à leur fournir certains avantages afin qu'elles puissent se remettre physiquement, psychologiquement et socialement:</p> <p><i>«Article 8 de la Loi 9/2017, du 25 mai, sur les mesures pour lutter contre la traite des êtres humains et protéger ses victimes:</i></p> <p><i>Avantages pour les victimes de la traite des êtres humains</i></p> <p><i>(...) 3. Les avantages financiers qui sont accordés aux victimes de la traite et, le cas échéant, à leurs enfants mineurs, doivent assurer leur protection moyennant:</i></p> <p><i>a) La couverture de l'entretien des besoins de base, l'hygiène personnelle, un logement et des vêtements.</i></p> <p><i>b) La couverture sanitaire par le gouvernement de 100% des frais médicaux et d'hospitalisation.</i></p> <p><i>c) L'accès au système de bourses d'études, même lorsque la période de demande de subvention est clôturée, dans le cas des</i></p>

	<i>enfants en âge scolaire obligatoire.</i> <i>d) Le paiement des frais de l'aide au retour dans le pays d'origine, ou les frais de déplacement vers un autre pays à la demande de la victime et si celui-ci lui offre sécurité et soutien, si nécessaire. (...)</i> »
18. Dans votre pays, les victimes d'infractions sont-elles couvertes par l'indemnisation par l'Etat, quelle que soit leur nationalité ou leur résidence, ou existe-t-il des restrictions quant au champ d'application territorial ?	En Andorre, les victimes d'infractions sont seulement couvertes par une indemnisation quand il s'agit d'une responsabilité directe de l'administration générale ou l'État (article 58 du Code de l'Administration). Dans ce cas-là, l'indemnisation est accordée par l'État quelle que soit la nationalité ou la résidence des victimes. Le budget général de l'État prévoit une partie dédiée à ces types d'indemnisations.
19. Votre gouvernement envisage-t-il des propositions pour améliorer la situation des victimes d'infractions? Si tel est le cas, merci de préciser.	Comme indiqué, le gouvernement d'Andorre a approuvé une loi spécifique pour lutter contre la traite des êtres humains et protéger ses victimes, même si ces types d'infractions criminelles n'ont jamais été dénoncés en Andorre. C'est pour cela que, le gouvernement n'envisage pas l'adoption d'autres propositions.
<b>POINTS DE VUE DE TOUS LES ETATS MEMBRES</b>	
20. Seriez-vous en faveur d'une mise à jour de la Convention européenne relative au dédommagement des victimes d'infractions violentes (STE n° 116) par le biais d'un Protocole additionnel ou un Protocole y portant amendement ? Si tel est le cas, merci de préciser ce que devrait couvrir une telle mise à jour ou un tel amendement.	Normalement, nous préférons l'élaboration de lignes directrices pour leur caractère non contraignant et pour la facilité de leur implémentation.
21. Préfereriez-vous l'élaboration d'une recommandation avec des lignes directrices qui complètent la Convention ? Si tel est le cas, merci de préciser ce que ces lignes directrices devraient couvrir.	

## AUSTRIA

### QUESTIONS

ELIGIBILITY	
1. Does your national law on state compensation operate on the basis of the principle of subsidiarity? In other words; is compensation only paid when it is not fully available from other sources? Please explain how the principle is applied.	Yes; according to the law on State compensation of victims of crime (Verbrechensopfergesetz – VOG) compensation is only paid when compensation by the offender, payments of insurances and social security or from other sources do not cover the entire damage..
2.a) Which crimes are covered by the national law on state compensation in your country? 2.b) Are crimes, not classified as intentional crimes of violence, also covered by the law?	Intentional crimes, causing bodily injury or impairment of health, which are punishable by more than 6 months imprisonment are covered.
3. Is your national law restricted to serious bodily injury or impairment of health, as stated in the Convention? If not, please specify.	See answer to 2; compensation is not restricted to serious bodily injury.
4. Which elements of compensation are paid to victims by the State in your country? (for example, loss of earnings, medical and hospitalisation expenses, non-material compensation).	i.a. loss of earnings, compensation for immaterial damages, care allowance, medical and hospitalisation expenses (rehabilitation), (psycho)therapeutic care, orthopaedic care, replacement of damaged health aids such as glasses or dentures, etc..
5.a) How is compensation to victims of violent crimes decided and calculated?	Criteria for civil liability are applied. The decision is taken in administrative proceedings.
5.b) How are the provisions of Article 8 of the Convention reflected in your legislation and how are they applied?	Compensation may be reduced or refused when the victim was involved in the crime, provoked the perpetrator or is guilty of not helping to solve the case.
5.c) Does your national law provide for the possibility to provide the applicant with advances on costs prior to the final decision on compensation? If yes, for	In case of an urgent need advances may be paid.

which purpose and to what limits?	
5.d) Does your national law prescribe a period of time in which to apply for compensation?	An application for assistance under the law on state compensation should be filed within two years after the crime. When a motion for assistance is brought after that period, assistance may be granted starting from the month following the date of application.
6. Do victims of terrorism have any specific status in your domestic law?	No
<b>ACCESS TO JUSTICE</b>	
7. Which steps have been taken to ensure that information about the scheme is available to potential applicants?	There is a legal obligation for the police, the criminal court of first instance and the prosecution service to inform victims of crime about possible assistance according to the national law on State compensation. In addition written information is available at the website of the Federal Ministry of Labour, Social Affairs and Consumer Protection, the Sozialministeriumservice and the EU
8.a) Have measures been taken to assist victims in making an application for compensation?	The Federal Ministry of Labour, Social Affairs and Consumer Protection informs and assists victims of crime in filing a motion under the VOG.
8.b) To which competent authorities should applications for compensation be submitted?	To the Federal Ministry of Labour, Social Affairs and Consumer Protection, which also decides on an application.
8.c) Are applicants obliged to bear any legal expenses related to applications for compensation?	No
8.d) Do perpetrators have the status of a party in compensation proceedings?	No
9. Can decisions on State compensation be appealed against by the applicant?	There is a legal remedy to the Federal Administrative Court, the Supreme Administrative and/or the Constitutional Court
10. Have studies been undertaken on the implementation of the domestic scheme for State compensation? If the answer is yes, what are the main results?	No
<b>THE CROSS-BORDER DIMENSION AND INTERNATIONAL CO-OPERATION</b>	
11. Are tourist victims or other individuals who are not permanent residents in your country but who are nationals of other Parties to the Convention and/or of Council of Europe member States, eligible for state compensation?	Yes
12. Are residents of countries that are not members of	Yes



the Council of Europe, eligible for State compensation in your country?	
13. How is information about State compensation made available to cross-border victims?	See answer to question 7.
14. What legal basis do you use to ensure international co-operation? *For the European Union Member States, other than Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, what legal basis do you use to ensure international cooperation?	ETS 116.
15. Has the administration of State compensation come across problems in the management of cross-border applications? If yes, please specify.	No specific problems have been encountered.
<b>VIEWS FROM ALL MEMBER STATES</b>	
20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.	No
21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.	Yes; the recommendation should respond to difficulties encountered in the application of Convention ETS 116.

## BELGIUM

### QUESTIONS

<b>RECEVABILITÉ</b>	
1. Votre droit national consacré à l'indemnisation par l'Etat opère-t-il sur le fondement du principe de subsidiarité ? En d'autres termes, l'indemnisation est-elle uniquement payée lorsque celle-ci ne peut être pleinement assurée par d'autres sources ? Merci d'expliquer la manière dont le principe est appliqué.	<p>Principe important : il n'est pas question d'indemnisation, mais d'une aide financière dont le montant est fixé en équité.</p> <p>Oui. L'article 31bis, §2, 5°, de la loi du 1er août 1985 portant des mesures fiscales et autres stipule : « La réparation du préjudice ne peut pas être assurée de façon effective et suffisante par l'auteur ou le civilement responsable, par un régime de sécurité sociale ou par une assurance privée, ou de toute autre manière. »</p>

	<p>La victime est invitée à donner des réponses sur certaines questions concernant le principe de subsidiarité ou de déclarer sur l'honneur qu'une intervention est impossible ou pas prévue.</p> <p>Par exemple est-il assuré ? a-t-il pu faire appel à une assurance ? quid avec l'intervention d'une assurance légale ou obligatoire ? quelles démarches ont été faites vis-à-vis l'auteur des faits ?</p>
2.a) Dans votre pays, quelles sont les infractions couvertes par le droit national consacré à l'indemnisation par l'Etat ?	<p>Il n'y a pas de liste d'infractions.</p> <p>La Commission peut octroyer une aide financière :</p> <p>1° aux personnes qui subissent un préjudice physique ou psychique important résultant directement d'un acte intentionnel de violence;</p> <p>2° aux successibles au sens de l'article 731 du Code civil, jusqu'au deuxième degré inclus, d'une personne dont le décès est la suite directe d'un acte intentionnel de violence, ainsi qu'aux alliés jusqu'au même degré inclus ou aux personnes qui vivaient dans un rapport familial durable avec elle;</p> <p>3° aux successibles au sens de l'article 731 du Code civil, jusqu'au deuxième degré inclus, d'une victime non décédée qui remplit les conditions de l'article 31, 1°, ainsi qu'aux alliés jusqu'au même degré inclus ou aux personnes qui vivaient dans un rapport familial durable avec elle;</p> <p>4° aux successibles au sens de l'article 731 du Code civil, jusqu'au deuxième degré inclus, d'une personne disparue depuis plus d'un an, lorsque cette disparition est due selon toute probabilité à un acte intentionnel de violence, ainsi qu'aux alliés jusqu'au même degré inclus ou aux personnes qui vivaient dans un rapport familial durable avec elle.</p>
2.b) Les infractions qui ne sont pas qualifiées comme étant des infractions intentionnelles de violence, sont-elles également couvertes par le droit ? Merci de préciser.	<p>Non, à l'exception des actes de sauvetage: les personnes qui portent volontairement secours à des victimes en dehors de l'exercice d'une activité professionnelle liée au domaine de la sécurité et en dehors de toute participation à une association quelconque structurée en vue de porter assistance et secours à des tiers, et qui sont dénommés "sauveteurs occasionnels".</p>
3. Votre droit national est-il limité aux graves atteintes	<p>Oui : un préjudice physique ou psychique important</p>

<p>au corps ou à la santé comme énoncé dans la Convention? Si tel n'est pas le cas, merci de préciser.</p>	<p>est nécessaire Exception: les actes de sauvetage.</p>
<p>4. Dans votre pays, quels éléments d'indemnisation sont payés aux victimes par l'Etat (par exemple, la perte de gains, des frais médicaux et d'hospitalisation, une indemnisation non matérielle) ?</p>	<p>Les postes du dommage pour lesquels une aide financière peut être octroyé sont énumérés à l'article 32 de la loi du 1er août 1985 :</p> <p>Art. 32.</p> <p>§ 1er. Pour l'octroi d'une aide aux personnes visées à l'article 31, 1°, la commission se fonde exclusivement sur les éléments suivants du dommage subi:</p> <ul style="list-style-type: none"> <li>1° le dommage moral;</li> <li>2° les frais médicaux et d'hospitalisation, en ce compris les frais de prothèses;</li> <li>3° l'invalidité temporaire ou permanente;</li> <li>4° une perte ou une diminution de revenus résultant de l'incapacité de travail temporaire ou permanente;</li> <li>5° le dommage esthétique;</li> <li>6° les frais de procédure, y compris l'indemnité de procédure;</li> <li>7° les frais matériels;</li> <li>8° le dommage résultant de la perte d'une ou de plusieurs années de scolarité.</li> </ul> <p>§ 2. Pour l'octroi d'une aide aux personnes visées à l'article 31, 2°, la commission se fonde exclusivement sur les éléments suivants du dommage subi :</p> <ul style="list-style-type: none"> <li>1° le dommage moral;</li> <li>2° les frais médicaux et d'hospitalisation;</li> <li>3° la perte d'aliments pour les personnes qui, au moment du décès de la victime, étaient à sa charge;</li> <li>4° les frais funéraires;</li> <li>5° les frais de procédure, y compris l'indemnité de procédure;</li> <li>6° le dommage résultant de la perte d'une ou de plusieurs années de scolarité.</li> </ul> <p>§ 3. Pour l'octroi d'une aide aux personnes visées à l'article 31, 3° et 4°, la commission se fonde exclusivement sur les éléments suivants du dommage subi:</p> <ul style="list-style-type: none"> <li>1° le dommage moral;</li> <li>2° les frais médicaux et d'hospitalisation;</li> </ul>

	<p>3° les frais de procédure, y compris l'indemnité de procédure;</p> <p>§ 4. Pour l'octroi d'une aide aux personnes visées à l'article 31, 5°, la commission se fonde exclusivement sur les éléments suivants du dommage subi:</p> <p>1° pour les sauveteurs occasionnels, les éléments du dommage visés au § 1er;</p> <p>2° pour les ayants droit des sauveteurs occasionnels, les éléments du dommage visés au § 2.</p>
5.a) De quelle manière l'indemnisation des victimes d'infractions violentes est-elle décidée et calculée ?	Le montant de l'aide est fixé en équité (art. 33, § 1er, de la loi du 1er août 1985) par un tribunal administratif : la Commission pour l'aide financière aux victimes d'actes intentionnels de violence et aux sauveteurs occasionnels.
5.b) Comment les dispositions de l'article 8 de la Convention ont-elles été transcrites dans votre législation et comment sont-elles appliquées ?	<p>La commission peut notamment prendre en considération :</p> <ul style="list-style-type: none"> <li>- le comportement du requérant ou de la victime lorsque ce comportement a contribué directement ou indirectement à la réalisation du dommage ou à son aggravation;</li> <li>- la relation entre le requérant ou la victime et l'auteur.</li> </ul> <p>(art. 33, § 1er, de la loi du 1er août 1985).</p>
5.c) Votre droit national prévoit-il la possibilité de fournir au requérant des avances sur les frais avant la décision finale sur l'indemnisation ? Si tel est le cas, à quelles fins et dans quelles limites ?	<p>Des avances ne sont pas possibles, mais l'article 36 de la loi du 1er août 1985 stipule:</p> <p>« Sans préjudice de l'application des articles 31 à 3, § 1er, la commission peut octroyer une aide d'urgence lorsque tout retard dans l'octroi de l'aide pourrait causer au requérant un préjudice important, vu sa situation financière.</p> <p>L'aide d'urgence est octroyée par acte intentionnel de violence et par requérant pour un dommage excédant 500 euros et est limitée à un montant de 30 000 euros. L'aide d'urgence peut être demandée dès la survenance de l'explosion ou de l'acte de sauvetage et, pour les victimes d'actes intentionnels de violence, dès après la constitution de partie civile ou l'introduction d'une plainte. »</p>
5.d) Votre droit national prévoit-il un certain délai pour présenter une demande d'indemnisation ?	Lorsque l'auteur est demeuré inconnu, le requérant doit avoir porté plainte, acquis la qualité de personne lésée ou s'être constitué partie civile. La demande est

	<p>introduite dans un délai de trois ans. Le délai prend cours, selon le cas, à partir du jour de la première décision de classement sans suite pour auteurs inconnus, ou du jour où une décision de non-lieu pour auteurs inconnus, qui a acquis force de chose jugée, a été prononcée par une juridiction d'instruction. L'aide peut également être octroyée lorsqu'un délai de plus d'un an s'est écoulé depuis le dépôt de plainte, l'acquisition de la qualité de personne lésée ou la date de constitution de partie civile et que l'auteur demeure inconnu.</p> <p>Lorsque l'auteur est connu, le requérant doit tenter d'obtenir réparation de son préjudice en s'étant constitué partie civile, en ayant procédé à une citation directe ou en ayant intenté une procédure devant un tribunal civil. La demande est introduite dans un délai de trois ans.</p> <p>Le délai prend cours, selon le cas, à partir du jour où il a été statué définitivement sur l'action publique par une décision coulée en force de chose jugée, prononcée par une juridiction d'instruction ou de jugement, du jour où une décision sur les intérêts civils, coulée en force de chose jugée, a été prononcée par la juridiction répressive postérieurement à la décision sur l'action publique, ou du jour où une décision, coulée en force de chose jugée, sur l'imputabilité ou l'indemnisation du dommage, a été prononcée par un tribunal civil.</p>
<p>6. Les victimes du terrorisme ont-elles un statut spécifique dans votre droit interne ?</p>	<p>Elles peuvent bénéficier de certaines exceptions introduites par l'arrêté royal du 16 février 2017 portant exécution de l'article 42bis de la loi du 1er août 1985 portant des mesures fiscales et autres, en ce qui concerne l'Aide de l'Etat aux victimes du terrorisme.</p> <p>Objectif: adaptation des dispositions qui ne s'appliquent pas au terrorisme ou dont l'application n'a pas de sens.</p> <ul style="list-style-type: none"> <li>▪ Jugement ou constitution de partie civile pas nécessaire</li> <li>▪ Délai d'introduction: trois ans à partir de l'AR de reconnaissance</li> </ul>

	<ul style="list-style-type: none"> <li>Faits commis à l'étranger: doivent être reconnus par AR et la victime doit avoir au moment de l'acte la nationalité belge ou sa résidence habituelle en Belgique</li> <li>Demande d'aide d'urgence possible dès que l'acte de terrorisme a eu lieu.</li> </ul>
<b>ACCÈS À LA JUSTICE</b>	
7. Quelles mesures ont été prises pour veiller à ce que les informations concernant le dispositif soient accessibles aux éventuels demandeurs ?	Site web, brochure
8.a) Des mesures ont-elles été prises pour aider les victimes à présenter une demande d'indemnisation ?	Site web, formulaire de requête, une victime peut également se faire assister par le délégué d'un organisme public ou d'une association agréée à cette fin par le Roi.
8.b) Quelles sont les autorités compétentes pour la présentation d'une demande d'indemnisation ?	La Commission pour l'aide financière aux victimes d'actes intentionnels de violence et aux sauveteurs occasionnels
8.c) Le demandeur doit-il supporter des frais juridiques liés à la demande d'indemnisation ?	Non
8.d) L'auteur de l'infraction a-t-il le statut de partie à la procédure d'indemnisation ?	Non
9. Les décisions relatives à l'indemnisation par l'Etat peuvent-elles faire l'objet d'un recours par le demandeur ?	Un recours en annulation devant le Conseil d'Etat contre une décision de la commission est ouvert au requérant et au Ministre de la Justice, conformément à l'article 14 des lois coordonnées sur le Conseil d'Etat ; (art. 34quater de la loi du 1er août 1985).
10. Des études ont-elles été effectuées sur la mise en œuvre du dispositif interne d'indemnisation par l'Etat? Si la réponse est positive, quelles en sont les principales conclusions ?	Non
<b>LA DIMENSION TRANSFRONTALIÈRE ET LA COOPÉRATION INTERNATIONALE</b>	
11. Les touristes victimes ou d'autres individus, qui ne sont pas des résidents permanents de votre pays, mais qui sont des ressortissants d'autres Parties à la Convention et/ou d'Etats membres du Conseil de l'Europe sont-ils éligibles à l'indemnisation par l'Etat ?	Oui
12. Dans votre pays, les résidents de pays qui ne sont pas membres du Conseil de l'Europe sont-ils éligibles à l'indemnisation par l'Etat ?	Oui
13. De quelle manière les informations concernant l'indemnisation par l'Etat sont-elles rendues accessibles aux victimes transfrontalières ?	Site web du SPF Justice, site web de l'UE
14. Quel fondement juridique utilisez-vous pour	Il n'y a pas d'autre mécanisme

assurer la coopération internationale ? *Pour les Etats membres de l'Union européenne, quel fondement juridique, autre que la Directive 2004/80/CE du Conseil du 29 avril 2004 relative à l'indemnisation des victimes de la criminalité, utilisez-vous pour assurer la coopération internationale ?	
15. L'administration chargée de l'indemnisation par l'Etat a-t-elle rencontré des problèmes dans la gestion de demandes transfrontalières ? Si tel est le cas, merci de préciser.	Manque de connaissance du système national et des systèmes étrangères, difficultés linguistiques.
<b>POINTS DE VUE DE TOUS LES ETATS MEMBRES</b>	
20. Seriez-vous en faveur d'une mise à jour de la Convention européenne relative au dédommagement des victimes d'infractions violentes (STE n° 116) par le biais d'un Protocole additionnel ou un Protocole y portant amendement ? Si tel est le cas, merci de préciser ce que devrait couvrir une telle mise à jour ou un tel amendement.	<p>Beaucoup d'Etats n'ont pas encore signé la Convention n°116. La Convention est pourtant , à notre sens, un bon instrument. Les grandes lignes de force y sont reprises, entrer dans les détails nous semble assez difficile et n'est d'ailleurs pas une nécessité. L'objectif devrait être plutôt l'application concrète de la Convention par les EM et partant sa signature. Il faudrait identifier les raisons pour lesquelles la Convention remporte peu de succès (pour les EM UE, est-ce le fait qu'ils doivent déjà répondre aux critères de la directive de 2004? Mais quelles seraient alors les raisons des E non UE ?), apporter des solutions et promouvoir davantage la Convention.</p> <p>S'il faut choisir, notre préférence va à une mise à jour de la Convention existante par le biais d'un Protocole y portant amendement.</p> <p>Le but devant rester celui d'uniformiser les règles des pays membres de la Conseil de l'Europe, les changements envisageables pourraient porter sur :</p> <ul style="list-style-type: none"> <li>- une meilleure définition des victimes et surtout des victimes indirectes</li> <li>- une meilleure définition des faits qui donnent lieu a intervention</li> <li>- une revision des exclusions</li> <li>- un meilleur mecanisme d echange des informations, surtout transfrontalieres.</li> </ul>
21. Préfereriez-vous l'élaboration d'une recommandation avec des lignes directrices qui complètent la Convention ? Si tel est le cas, merci de	Voir réponses à la question n°20.

## BOSNIA AND HERZEGOVINA

In accordance with the Law on Criminal Procedure Code of Bosnia and Herzegovina, a property claim or a request for compensation of material or non-material damage resulting from a criminal act is to be covered by the accused and subsequently convicted party for that particular act, though the Law does not define a system of such compensations provided by the state in a manner provided for by The European Convention on the Compensation of Victims of Violent Crime.

Some countries in the region of South-Eastern Europe (as is the case with Montenegro, for example) do possess a separate law settling the compensation of damage to the victims of violent crimes and envisage criminal acts of violence to be compensated by the state, along with the conditions, means and procedures in acquiring such compensations accorded to the above mentioned the CoE Convention.

Pursuant to Article 12 of the Convention, the Ministry of Justice of BiH is the central authority to act on behalf of Bosnia and Herzegovina.

We would also use this opportunity to inform you that we are not in position to fill in the required questionnaire.

## BULGARIA

### QUESTIONS

#### ELIGIBILITY

1. Does your national law on state compensation operate on the basis of the principle of subsidiarity? In other words; is compensation only paid when it is not fully available from other sources? Please explain how the principle is applied.

Since January 2007 in the Republic of Bulgaria the Law on support and financial compensation to crime victims is in force. This law implements the requirements of the “Framework Decision 2001/220 of the Council of the European Union on the standing of victims in criminal proceedings” and of the Directive 2004/80 of the Council of The European Union on the compensation of the victims of crimes. In October 2016 the Law on support and financial compensation to crime victims has been amended by implementation of the requirements of the Directive 2012/29/EU of the European parliament and of the Council of 25.10.2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision



	2001/220/JHA. By virtue of Art.15, para 15, p. 4 of the mentioned law financial compensation is not granted when the victim has obtained indemnification in another way. This fact has to be declared in compliance of Art.18qpara 7 of the law.
2.a) Which crimes are covered by the national law on state compensation in your country?	By virtue of Art.3, para 3 of the Law on support and financial compensation to crime victims, financial compensation may be granted to the persons referred to in para 1 and 2, who have suffered damages from the following crimes: terrorism; deliberate homicide; deliberate serious bodily harm; sexual molestation and rape, as a result of which serious health damages have been caused; traffic of people; crimes, committed by an order or in fulfilment of a decision of an organised criminal group, as well as other serious deliberate crimes as a result of which death or serious bodily harm have been caused as corpus delicti consequence.
2.b) Are crimes, not classified as intentional crimes of violence, also covered by the law? Please specify.	See Q.2a
3. Is your national law restricted to serious bodily injury or impairment of health, as stated in the Convention? If not, please specify.	See Q. 2a
4. Which elements of compensation are paid to victims by the State in your country? (for example, loss of earnings, medical and hospitalisation expenses, non-material compensation).	According to Art. 14, para 1 of the Law on support and financial compensation to crime victims the financial compensation shall comprise, jointly or separately, the material damages, being direct consequence of the crime, which are in the form of: 1. expenses for treatment, except for the expenses paid by the budget of the National Health Insurance Fund; 2. missed income; 3. expenses for payments of court and office expenses; 4. missed financial resources for maintenance; 5. funeral expenses; 6. other material damages.
5.a) How is compensation to victims of violent crimes decided and calculated?	By virtue of Art. 18, para 7 of the Law on support and financial compensation to crime victims,

	attached to the application shall be verified copies of the documents, certifying the information indicated in it. All material damages are to be proved by the victim using as evidence relevant documents.
5.b) How are the provisions of Article 8 of the Convention reflected in your legislation and how are they applied?	<p>According to Art.15,para 1 and para 2 of the Law on support and financial compensation to crime victims financial compensation is not granted in case:</p> <ol style="list-style-type: none"> <li>1. the victim has been convicted of crime under Art. 3, para 3 during the last 5 years prior to submitting the application for financial compensation;</li> <li>2. the criminal act has been committed in a status of affect, which has been provoked by the victim by illegal act, as a result of which have occurred or there was a possibility of occurrence of serious consequences for the culprit or his/her next of kin;</li> <li>3. the criminal act has been committed by exceeding the requirements of justifiable defence;</li> <li>4. the victim has obtained indemnification in another way;</li> <li>5. the victim has not informed the competent authorities of the commitment of the crime, unless he/she could not have done that for good reasons;</li> </ol> <p>(2) In case the victim has contributed to the occurrence of the criminal result, this shall lead to reduction of the financial compensation, which the victim would obtain.</p>
5.c) Does your national law provide for the possibility to provide the applicant with advances on costs prior to the final decision on compensation? If yes, for which purpose and to what limits?	<p>By virtue of Art.12, para 2 of the Law on support and financial compensation to crime victims, the financial compensation shall be granted after coming into effect of:</p> <ol style="list-style-type: none"> <li>1.the conviction sentence, including the cases where the case has been considered in the absence of the defendant;</li> <li>2.an agreement on deciding the case in pre- trial proceedings</li> <li>3. the prosecutor's or judicial act, by virtue of which the penal proceedings have been terminated, except for the cases where the termination is on the ground of Art. 24, para 1, items 1, 7 and 9 of the Penal Procedure Code;</li> <li>4. the prosecutor's or judicial act, by virtue of which the penal proceedings have been suspended due to</li> </ol>

	non-detection of the perpetrator of the crime
5.d) Does your national law prescribe a period of time in which to apply for compensation?	According to Art.18, para 3 of the Law on support and financial compensation to crime victims the application for financial compensation shall be submitted to the Regional governor at the Ministry of Justice in one year term from the entry into force of the act as per Art. 12, para 2 of the same law.( see Q. 5c)
6. Do victims of terrorism have any specific status in your domestic law?	Victims of crimes under Law on support and financial compensation to crime victims have equal rights.
<b>ACCESS TO JUSTICE</b>	
7. Which steps have been taken to ensure that information about the scheme is available to potential applicants?	According to Art.6, para 1 and 2 and Art.6a of the Law on support and financial compensation to crime victims the bodies of the Ministry of Interior, the investigators and the victim support organizations shall notify the victims of their rights under this law. During the pre- trial proceedings the prosecutor is supervising the execution of the duties of the investigating bodies to inform the victims on their rights. When informing the victims, the competent authorities take into consideration the specific condition of the victim and their age. The notification shall be carried out in writing or verbally in a language understandable to the victims. Written records shall be drawn up for the notification, in two copies which shall be registered at the registry office of the respective body or organization under para 1, one of the copies of the record and the notification are handed to the victim. The information regarding the rights of the victims under the Law on support and financial compensation to crime victims is published on the internet site of the National council for support and compensation of victims of crimes – <a href="http://www.compensation.bg">www.compensation.bg</a>
8.a) Have measures been taken to assist victims in making an application for compensation?	The non-governmental organizations on support of victims are cooperating with the victims in fulfilling applications for financial compensation under the Law on support and financial compensation to crime victims.

8.b) To which competent authorities should applications for compensation be submitted?	Art.18, para 3 of the Law on support and financial compensation to crime victims stipulates that the application for financial compensation shall be submitted to the National Council at the Ministry of Justice. The application may be submitted through the regional governor or through the organization for support of victims at the present address of the victim.
8.c) Are applicants obliged to bear any legal expenses related to applications for compensation?	The application for financial compensation is submitted free of charge by the victim. There are no charges for the submission and the examination of the application.
8.d) Do perpetrators have the status of a party in compensation proceedings?	The perpetrator of the crime is not a party of the financial compensation procedure under the Law on support and financial compensation to crime victims.
9. Can decisions on State compensation be appealed against by the applicant?	By virtue of Art.24, para 5 of the Law on support and financial compensation to crime victims, the decisions of the National Council on support and compensation of crime victims cannot be challenged.
10. Have studies been undertaken on the implementation of the domestic scheme for State compensation? If the answer is yes, what are the main results?	There are no studies yet undertaken.
<b>THE CROSS-BORDER DIMENSION AND INTERNATIONAL CO-OPERATION</b>	
11. Are tourist victims or other individuals who are not permanent residents in your country but who are nationals of other Parties to the Convention and/or of Council of Europe member States, eligible for state compensation?	According to Art.1 of the Law on support and financial compensation to crime victims, this Law regulates the terms and the procedure for support and financial compensation granted by the state to victims of crime - Bulgarian citizens or citizens of Member States of the European Union. Under the terms and following the procedure of this law, support and financial compensation may also be granted to foreign citizens in the cases, provided for in international agreements, to which the Republic of Bulgaria is a party.
12. Are residents of countries that are not members of the Council of Europe, eligible for State compensation in your country?	See Q 11.
13. How is information about State compensation made available to cross-border victims?	Art.6 (в) of the Law on support and financial compensation to crime victims stipulates that the diplomatic missions of the Republic of Bulgaria in the member states of the EU are informing in

	<p>writing Bulgarian citizens which are residing in these countries and which are victims of crimes committed on the territory of the accepting country. On request the victims shall be informed regarding the local competent authorities dealing with the matter of victim's financial compensation, regarding the terms and procedures for receiving financial compensation as well as for the terms and procedures on the territory of Bulgaria. This information is available in Bulgarian, English, French and German on the internet site of the National Council for support and compensation of victims of crimes- <a href="http://www.compensation.bg">www.compensation.bg</a></p>
<p>14. What legal basis do you use to ensure international co-operation? *For the European Union Member States, other than Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, what legal basis do you use to ensure international cooperation?</p>	<p>According to Art. 27 of the Law on support and financial compensation to crime victims the National council is cooperating with the competent authorities of other countries in cases where Bulgarian citizens are victims of crimes committed abroad. At the same time it gives support to foreign citizens, legally residing on the territory of the Republic of Bulgaria to receive all kind of support according to the law. The Ministry of justice is a Central body in the procedure of receiving and processing applications for financial compensation concerning foreign citizens.</p>
<p>15. Has the administration of State compensation come across problems in the management of cross-border applications? If yes, please specify.</p>	<p>The cross- border applications are dealt with under the provisions of the Directive 2004/80/EU, and no problems in the application of the Directive are detected.</p>
<b>VIEWS FROM ALL MEMBER STATES</b>	
<p>20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.</p>	<p>No information available at the moment being</p>
<p>21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.</p>	<p>No information available at the moment being</p>

## QUESTIONS

ELIGIBILITY	
1. Does your national law on state compensation operate on the basis of the principle of subsidiarity? In other words; is compensation only paid when it is not fully available from other sources? Please explain how the principle is applied.	<p>Article 15. Act of monetary remuneration for Victims of Criminal Offenses</p> <p>Reimbursements based on health, pension or other insurance and other grounds are included in the adequate basis for compensation so that the victim's remuneration consists of the difference between the total remuneration on which under this Act the victim has the right and what the victim receives on one or more of these grounds.</p> <p>Voluntary insurance that direct or indirect victims pay are not included in the amount of the allowance.</p> <p>- Article 41. Act of monetary remuneration for Victims of Criminal Offenses</p> <p>The application for compensation under this Act does not exclude the right of the victim to make the compensation of the damage done by the person who, by committing the criminal offense, has incurred damage (pests).</p> <p>When the victim receives compensation directly from the pest it will be included in the fee that victim requests from the Republic of Croatia.</p> <p>When compensation for damages is fully recovered by pest, the victim's request will be rejected and if the proceedings have been completed but the payment has not yet been made, a decision will be made that the victim's compensation shall not be paid.</p> <p>When the Republic of Croatia has paid compensation under this Act and the victim achieves part or full compensation for damage from pests, the Republic of Croatia has for the principal amount that the victim has made directly from the pest, right to seek recourse from the victim.</p>
2.a) Which crimes are covered by the national law on state compensation in your country?	2.a) In order to obtain compensation from the state under this Law, there must be criminal offenses with

<p>2.b) Are crimes, not classified as intentional crimes of violence, also covered by the law? Please specify.</p>	<p>elements of violence committed with intent on the territory of the Republic of Croatia, and the consequences of these crimes must be either serious bodily injury or severe disturbance of health or mortal consequence.</p> <p>The criminal offense of violence is considered:</p> <ul style="list-style-type: none"> <li>- a crime committed intentionally with the use of force or the violation of sexual integrity,</li> <li>- the act of endangering the life and property of a general-risk action or means causing death, serious bodily injury or severe health disturbance of one or more persons, and prescribed by the Criminal Code as the heavier form of a criminal offense committed with intent</li> </ul> <p>2.b) This Act only applies to criminal offenses with elements of violence, that is, the aforementioned criminal offenses committed with intent.</p>
<p>3. Is your national law restricted to serious bodily injury or impairment of health, as stated in the Convention? If not, please specify.</p>	<p>Yes.</p>
<p>4. Which elements of compensation are paid to victims by the State in your country? (for example, loss of earnings, medical and hospitalisation expenses, non-material compensation).</p>	<p>financial compensation for medical treatment costs</p> <ul style="list-style-type: none"> <li>- financial compensation for lost earning</li> <li>- for loss of legal alimony</li> <li>- financial compensation for funeral expenses</li> </ul>
<p>5.a) How is compensation to victims of violent crimes decided and calculated?</p>	<p>The Committee on compensation to crime victims shall take a decision on the right to compensation at the sessions chaired by the Chairman of the Committee; the decision is made by a majority vote of all members of the Committee; the Committee meets every 2 months and, if necessary, more frequently; the material for sessions and draft decisions is prepared by the Ministry of Justice; The Committee has also by himself perform evidence; evidence is generally performed by reading the documents, and exceptionally can be conducted interrogate witnesses and/or the person submitting.</p>
<p>5.b) How are the provisions of Article 8 of the Convention reflected in your legislation and how are</p>	<p>When deciding on the right to compensation, consideration is given to:</p> <ul style="list-style-type: none"> <li>- behavior of immediate victim before, at the time</li> </ul>

they applied?	<p>of the commission of the criminal offense, and thereafter,</p> <ul style="list-style-type: none"> <li>- the contribution of the immediate victim to the emergence and scope of damage,</li> <li>- whether the immediate victim and in which time he reported the criminal offense to the competent authorities,</li> <li>- immediate victim's cooperation with the police and the competent authorities,</li> <li>- immediate victim who has contributed to the occurrence of damage or to be higher is entitled to a relatively reduced fee,</li> <li>- the claim will be rejected or compensation will be reduced if the victim is involved in organized crime or a criminal organization,</li> <li>- the compensation can be rejected or reduced even if the full fees are in the opposite of justice, morals or public order.</li> </ul>
5.c) Does your national law provide for the possibility to provide the applicant with advances on costs prior to the final decision on compensation? If yes, for which purpose and to what limits?	We do not provide giving compensation before making a decision on compensation, i.e. no advance payment.
5.d) Does your national law prescribe a period of time in which to apply for compensation?	Yes, our Act sets the time limit for submitted the application.
6. Do victims of terrorism have any specific status in your domestic law?	<p>Yes.</p> <p>Act on Responsibility for Damage caused by Terrorist Actions and Public Demonstrations</p>
<b>ACCESS TO JUSTICE</b>	
7. Which steps have been taken to ensure that information about the scheme is available to potential applicants?	<p>On the Ministry of Justice web site there is an application form, Croatian and English brochures on the rights and the way of enforcing the rights to financial compensation for victims of criminal offenses are published.</p> <p>Support departments for victims and witnesses have been established at the County courts where employees provide information on the right to compensation and assist in completing the application form, and also volunteers at the National</p>



	<p>Call Center respond to citizens' inquiries and provide information.</p> <p>Information about the right can also be obtained from the state attorney's office and the police who on the victim's search give the form and help in completing.</p>
8.a) Have measures been taken to assist victims in making an application for compensation?	The answer is under question number 7.
8.b) To which competent authorities should applications for compensation be submitted?	The application is submitted to the Ministry of Justice, and about the application decides The Committee on compensation to crime victims.
8.c) Are applicants obliged to bear any legal expenses related to applications for compensation?	In the process of obtaining compensation according to this law, no administrative fees are payable; the translation costs and the cost of the expertise are charged with the state budget.
8.d) Do perpetrators have the status of a party in compensation proceedings?	The perpetrator is not a party in this procedure (The State has the right to regress the perpetrator)
9. Can decisions on State compensation be appealed against by the applicant?	The person who submitted has not entitled to appeal shall about a decision on financial compensation, but has the right within 30 days from the date of delivery of the decision against the decision to initiate an administrative dispute at the competent Administrative Court.
10. Have studies been undertaken on the implementation of the domestic scheme for State compensation? If the answer is yes, what are the main results?	Studies have not been undertaking so far.
<b>THE CROSS-BORDER DIMENSION AND INTERNATIONAL CO-OPERATION</b>	
11. Are tourist victims or other individuals who are not permanent residents in your country but who are nationals of other Parties to the Convention and/or of Council of Europe member States, eligible for state compensation?	<p>The right to claim compensation has victim:</p> <ul style="list-style-type: none"> <li>- who is Croatian citizen, or resides on its territory</li> <li>- who is citizen of the European Union or resides on its territory and all this if a criminal offense was committed against the immediate victim in the territory of the Republic of Croatia.</li> </ul>
12. Are residents of countries that are not members of the Council of Europe, eligible for State compensation in your country?	No. (The answer is covered by question number 11.).
13. How is information about State compensation made available to cross-border victims?	<p>On the website of the Ministry of Justice, brochures in English and through the data published in the manual.</p> <p>Information and forms were delivered to the</p>

	European Commission in purpose of preparation of a manual on the internet page.
14. What legal basis do you use to ensure international co-operation? *For the European Union Member States, other than Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, what legal basis do you use to ensure international cooperation?	According to current practise, which is not considerable, the only legal basis that was used is Directive 2004/80/EC.
15. Has the administration of State compensation come across problems in the management of cross-border applications? If yes, please specify.	<p>Yes. There are some doubts we are facing to. The national legislation (The Act) prescribes that when we are the deciding body, the claims are submitted in Croatian language, and also the enclosed documents in the foreign language must have verified translation into Croatian.</p> <p>- Who translates requests and documents to victims, whether the assisting body or the applicants themselves?</p> <p>If, as a decisive body, we have a request from the assisting body, whether the further correspondence goes through the assisting body or directly with the applicant (the delivery relatively request for certain documents, data etc. from the applicant).</p> <p>- Since when is the deadline for submitting, is it from the date on which the applicant submits the request to the assisting body, or from the day the assisting body submits a request to us as the decisive body? So what day is the request being considered to be filed?</p> <p>The Act stipulates the deadline for submitting the application.</p> <p>If we have requested the applicant to complete the request within a certain time, from which date is the date of delivery- from the day the delivery to the assisting body or from the day the assisting body submits our conclusion (our request) to the applicant.</p>
<b>VIEWS FROM ALL MEMBER STATES</b>	
20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.	It is worth considering whether it should be amendments to ETS 116 or just an advanced guidelines satisfies the needs. Anyhow, additional protocol should be accompanied with advanced guidelines to the Convention.
21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.	It is worth to consider the development of a recommendation with guidelines complementing the Convention, at least for the reasons stated above (question no. 15.).

## CYPRUS

### QUESTIONS

ELIGIBILITY	
1. Does your national law on state compensation operate on the basis of the principle of subsidiarity? In other words; is compensation only paid when it is not fully available from other sources? Please explain how the principle is applied.	Yes, state compensation is provided when compensation is not fully available from other sources. It is noted that, state compensation is provided even if the offender cannot be prosecuted or punished. Additionally, when the compensation provided by the offender and/or any other source is less than the state compensation, then the state supplements the difference.
2.a) Which crimes are covered by the national law on state compensation in your country? 2.b) Are crimes, not classified as intentional crimes of violence, also covered by the law? Please specify.	a) Intentional crimes of violence as a result of which either death or serious bodily injury or impairment of health are resulted. These include, inter alia, murder, attempt to murder, rape, attempt to commit rape, abduction, abduction of girls under sixteen, acts intended to cause grievous harms, grievous harm, attempting to injure by explosive substances, maliciously administering poison with intent to harm, wounding, assault causing actual bodily harm, other assaults, offences against liberty, arson b) No
3. Is your national law restricted to serious bodily injury or impairment of health, as stated in the Convention? If not, please specify.	Yes
4. Which elements of compensation are paid to victims by the State in your country? (for example, loss of earnings, medical and hospitalisation expenses, non-material compensation).	Loss of earnings, medical and hospitalisation expenses, funeral expenses, loss of maintenance.
5.a) How is compensation to victims of violent crimes decided and calculated?	The compensation awarded includes, as the case may be: i) free medical treatment by the public medical

	<p>institutions and services up to the amount of €1709, ii) sickness allowance, in case of temporary disability to work, which is equal to the full basic allowance paid on the basis of the Social Insurance Law, for a period of up to 6 months, iii) a disability pension, in the case of permanent diminution of the capacity to work of a degree justifying a right to disability pension on the basis of the Social Insurance Law, calculated based on the corresponding percentage of the full basic pension paid on the basis of the Social Insurance Law, iv) a pension to the dependents in the case of death of the victim, equal to the rate of the full basic widow's pension or orphan's benefit and funeral grant on the basis of the Social Insurance Law.</p> <p>Application to the Director of Social Insurance Services</p>
5.b) How are the provisions of Article 8 of the Convention reflected in your legislation and how are they applied?	<p>Compensation is refused:</p> <p>a) on account of the victim's or the applicant's conduct before, during or after the crime, or in relation to the injury or death.</p> <p>b) on account of the victim's or the applicant's involvement in organised crime or his membership of an organisation which engages in crimes of violence.</p> <p>c) when the crime was not reported to the police within 5 days from the day it was committed or from the time it was reasonably possible to report it,</p> <p>d) if the victim or the applicant, according to the opinion of the Attorney General, has refused to fully cooperate with the Police.</p>
5.c) Does your national law provide for the possibility to provide the applicant with advances on costs prior to the final decision on compensation? If yes, for which purpose and to what limits?	No
5.d) Does your national law prescribe a period of time in which to apply for compensation?	Within 2 years since the death or the injury etc. has occurred.
6. Do victims of terrorism have any specific status in	No . They are considered as victims of violent crimes (see Law 110(I)/2010, section 20).

your domestic law?	
<b>ACCESS TO JUSTICE</b>	
7. Which steps have been taken to ensure that information about the scheme is available to potential applicants?	The national Law, the application and general information on the national scheme is available by the Social Insurance Services offices and on their website, as well as the contact point details are provided at the European Judicial Atlas, and there is cooperation with other EU member states in cross border situations as provided by the Directive 2004/80/EC.
8.a) Have measures been taken to assist victims in making an application for compensation?	Applicants are provided with any possible assistance required in the process of filing an application.
8.b) To which competent authorities should applications for compensation be submitted?	Application must be submitted to the Director of the Social Insurance Services
8.c) Are applicants obliged to bear any legal expenses related to applications for compensation?	No
8.d) Do perpetrators have the status of a party in compensation proceedings?	No
9. Can decisions on State compensation be appealed against by the applicant?	Decisions of the Director can be challenged through an application for judicial review before the Supreme Court within 75 days.
10. Have studies been undertaken on the implementation of the domestic scheme for State compensation? If the answer is yes, what are the main results?	No
<b>THE CROSS-BORDER DIMENSION AND INTERNATIONAL CO-OPERATION</b>	
11. Are tourist victims or other individuals who are not permanent residents in your country but who are nationals of other Parties to the Convention and/or of Council of Europe member States, eligible for state compensation?	Nationals of other Parties to the Convention who are not permanent residents in Cyprus are eligible for state compensation Nationals of Council of Europe member States have to be permanent residents in Cyprus to be eligible for state compensation
12. Are residents of countries that are not members of the Council of Europe, eligible for State compensation in your country?	Nationals of the European Union member states are eligible for state compensation
13. How is information about State compensation made available to cross-border victims?	The national Law, the application and general information on the scheme is available by the Social Insurance Services offices and on their website, as well as the contact point details are provided at the European Judicial Atlas, and there is cooperation with other member states in cross border situations as provided by the Council Directive 2004/80/EC.

14. What legal basis do you use to ensure international co-operation? *For the European Union Member States, other than Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, what legal basis do you use to ensure international cooperation?	The legal basis used is the Council Directive 2004/80/EC of 29/4/2004 relating to compensation to crime victims and the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116).
15. Has the administration of State compensation come across problems in the management of cross-border applications? If yes, please specify.	No.
<b>VIEWS FROM ALL MEMBER STATES</b>	
20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.	Cyprus is satisfied with the content of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116).
21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.	Cyprus is satisfied with the content of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116).

## CZECH REPUBLIC

### QUESTIONS

<b>ELIGIBILITY</b>	
1. Does your national law on state compensation operate on the basis of the principle of subsidiarity? In other words; is compensation only paid when it is not fully available from other sources? Please explain how the principle is applied.	Yes, the principle of subsidiarity is applied. Section 25 (2) of the Act no. 45/2013 Coll., on Victims of Crime, as amended (hereinafter referred to as “the Act on Victims of Crime”), provides that the compensation is only paid when the damage (nonmaterial damage, injury to health or damage as a consequence of death caused by the criminal offence) was not fully compensated by other means.
2.a) Which crimes are covered by the national law on state compensation in your country?	There is no exhaustive list of criminal offences that are covered because the type of criminal offence, which inflicted the damage, is not the primary criterion for provision of state compensation. On the other hand, pursuant to section 24 (1) of the Act on Victims of Crime, only such victims who have suffered harm to health or grievous bodily harm, who are survivors of a deceased victim, or victims of crimes against human sexual dignity and

	<p>children victims of human trafficking who have suffered nonmaterial damage are entitled to the state compensation.</p> <p>Therefore the primary criterion for provision of state compensation is the consequence of the criminal offence and not the type of criminal offence itself, however only such criminal offences which may cause an injury to health, criminal offences against human sexual dignity and human trafficking regarding children victims are actually covered.</p>
2.b) Are crimes, not classified as intentional crimes of violence, also covered by the law? Please specify.	<p>Yes.</p> <p>Any criminal offence which may result in an injury to health of the victim may be covered (see 2a). That may include also negligent criminal offences such as negligent harm to health or negligent grievous bodily harm.</p>
3. Is your national law restricted to serious bodily injury or impairment of health, as stated in the Convention? If not, please specify.	<p>No. See answers 2a and 2b.</p>
4. Which elements of compensation are paid to victims by the State in your country? (for example, loss of earnings, medical and hospitalisation expenses, non-material compensation).	<p>The elements differ according to categories of victims as provided for in section 28 of the Act on Victims of Crime.</p> <p>Victims who have suffered injury to health and are entitled to compensation may request upon their choice either lump sum compensation or compensation which covers actual loss of earnings and costs connected with medical treatment.</p> <p>Victims who are survivors of a deceased victim and are entitled to compensation may request lump sum compensation.</p> <p>Victims who have suffered a nonmaterial damage as a result of a criminal offence against human sexual dignity or in case of children victims also human trafficking are entitled to reimbursement of costs of psychotherapeutic treatment or other similar treatment intended to remedy the nonmaterial damage suffered.</p>
5.a) How is compensation to victims of violent crimes decided and calculated?	<p>The lump sum compensation for victims who have suffered harm to health amounts to 10.000 CZK, for</p>

	<p>victims who have suffered grievous bodily harm it amounts to 50.000 CZK. In case these victims decide to request compensation of actual expenses its amount must not exceed 200.000 CZK in total.</p> <p>Victims who are survivors of a deceased victim may receive lump sum compensation amounting to 200.000 CZK and in case of siblings of a deceased victim 175.000 CZK. The total amount of compensation paid to all survivors must not exceed 600.000 CZK.</p> <p>Victims who have suffered a nonmaterial damage may receive reimbursement of their actual costs (as stated in answer 4) up to 50.000 CZK, but only insofar as the compensation hasn't already been provided to them as to victims who have suffered injury to health.</p> <p>Any amount of compensation that the victim has received by other means (e.g. from the perpetrator or an insurance company) is deducted from the amount of state compensation.</p> <p>See also answer 4.</p>
<p>5.b) How are the provisions of Article 8 of the Convention reflected in your legislation and how are they applied?</p>	<p>The Act on Victims of Crime regulates particular situations in which the compensation will not be provided in section 27 and situations in which the compensation does not have to be provided or its amount may be reduced in section 29.</p> <p>Sec 27</p> <p>Reasons for not providing monetary assistance</p> <p>The state does not provide compensation if the victim</p> <ul style="list-style-type: none"> <li>a) is being prosecuted as co-accused person in criminal proceedings held for a criminal offence, which has resulted in damage to his health or nonmaterial damage, or was an accomplice in such a crime,</li> <li>b) did not consent to criminal prosecution of the perpetrator of a criminal offence in cases where this consent is a precondition for initiation of criminal prosecution or continuing in it, or he has withdrawn such consent, or</li> <li>c) did not provide necessary cooperation to the law</li> </ul>



	<p>enforcement authorities mainly by not submitting a criminal complaint immediately and without a serious reason, in relation to which he requires compensation for damage or nonmaterial damage, or as a witness in criminal proceedings used his right to refuse to testify with reference to his relationship to the perpetrator.</p> <p>Sec 29</p> <p>Reduction and denial of monetary assistance</p> <p>Monetary assistance determined according to Sec 28 can be reduced or denied with regard to the social situation of the victim and to</p> <p>a) what level the victim is a co-contributor to the origin of the damage and</p> <p>b) whether the victim used all legal means in order to exercise his claim to compensation for damage or nonmaterial damage against the perpetrator or another person, who is obliged to provide compensation for the damage.</p>
5.c) Does your national law provide for the possibility to provide the applicant with advances on costs prior to the final decision on compensation? If yes, for which purpose and to what limits?	<p>The state compensation may be provided also prior to the final judgment in the criminal proceedings, thus during the course of the criminal proceedings, in case there is no reasonable doubt that the criminal offence has been committed and caused the damage.</p> <p>This does not actually constitute an advance on costs, because the entire compensation, to which the victim is entitled, is already provided, however it is paid before the final judgment in the criminal proceedings.</p> <p>Therefore this mechanism ensures possibility of expeditious payment of the state compensation before the final judgment in the criminal proceedings.</p>
5.d) Does your national law prescribe a period of time in which to apply for compensation?	<p>Yes.</p> <p>The application for compensation has to be submitted within two years after the day when the victim learned of the damage caused by the criminal offence, but no later than within five years after commission of the criminal offence.</p>
6. Do victims of terrorism have any specific status in	<p>Yes.</p> <p>Victims of terrorism fall within the category of</p>

your domestic law?	particularly vulnerable victims, who have enhanced rights.
<b>ACCESS TO JUSTICE</b>	
7. Which steps have been taken to ensure that information about the scheme is available to potential applicants?	Detailed information about the scheme including forms which may be used for the application is available to the potential applicants on the website of the Ministry of Justice, <a href="http://www.justice.cz">www.justice.cz</a> . Pursuant to section 8 (1) (g) of the Act on Victims of Crime, the victim is given information on his/her right to compensation and conditions of its exercise already during the first contact with a police authority.
8.a) Have measures been taken to assist victims in making an application for compensation?	The Compensation department prepared the optional form, which will lead the applicant through the whole process to gather all relevant statements and to provide all necessary supporting documents for submission of application and by using which the victim can submit his/her application. This abovementioned form is accessible online and significant part of victims uses this form for their application. Additionally, the Compensation department cooperates with non-governmental organisations which are specialised on providing help for victims and Probation and mediation service, which is contacted by the victims as well, and provides them practical information and methodical help in the area of helping to the victims with the submission of application for pecuniary compensation. Finally, the contact information about the employees of this department, who are specialised on pecuniary compensation, is available on the website, so the victims are able to consult the submission procedure with them by phone
8.b) To which competent authorities should applications for compensation be submitted?	To the Department of Compensation of the Ministry of Justice.
8.c) Are applicants obliged to bear any legal expenses related to applications for compensation?	No
8.d) Do perpetrators have the status of a party in compensation proceedings?	No
9. Can decisions on State compensation be appealed against by the applicant?	The decision is taken by the Ministry of Justice in administrative proceedings. An ordinary appeal against the decision on compensation may not be filed, however the victim who requested compensation may bring an action against such decision within administrative justice system to the

	Regional Court in Prague.
10. Have studies been undertaken on the implementation of the domestic scheme for State compensation? If the answer is yes, what are the main results?	No studies had been undertaken in this issue.
<b>THE CROSS-BORDER DIMENSION AND INTERNATIONAL CO-OPERATION</b>	
11. Are tourist victims or other individuals who are not permanent residents in your country but who are nationals of other Parties to the Convention and/or of Council of Europe member States, eligible for state compensation?	<p>As one of parties to the Convention the Czech Republic provides compensation also to victims mentioned in article 3 of the Convention.</p> <p>Section 23 (3) of the Act on Victims of Crime stipulates that compensation shall be provided also to foreign victims under the conditions and in the scope set up by an international convention which is binding for the Czech Republic.</p>
12. Are residents of countries that are not members of the Council of Europe, eligible for State compensation in your country?	<p>As there is no other international convention in place which would extend the scope of persons to whom the state compensation may be provided pursuant to section 23 (3) of the Act on Victims of Crime and with regard to the fact that all EU member states are also members of the Council of Europe, residents of countries that are not members of the Council of Europe are in principle not eligible for state compensation in the Czech Republic.</p> <p>The state compensation may however be provided to all foreigners who are legally residing in the Czech Republic for more than 90 days as well as to all foreigners with asylum protection in case the criminal offence has been committed within the territory of the Czech Republic.</p>
13. How is information about State compensation made available to cross-border victims?	<p>Same conditions as for Czech citizens are applicable for cross-border victims. Detailed information about the scheme including forms which may be used for the application is available to the potential applicants on the website of the Ministry of Justice, <a href="http://www.justice.cz">www.justice.cz</a>. (mostly in Czech but also English form will be added promptly).</p> <p>Pursuant to section 8 (1) (g) of the Act on Victims of Crime, the victim is given information on his/her right to compensation and conditions of its exercise already during the first contact with a police authority in his/her native language.</p>

14. What legal basis do you use to ensure international co-operation? *For the European Union Member States, other than Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, what legal basis do you use to ensure international cooperation?	There is no other specific tool in place which would be used in this regard apart from the Convention and the Council Directive 2004/80/EC.
15. Has the administration of State compensation come across problems in the management of cross-border applications? If yes, please specify.	The Czech Republic has not recall any problem which would be specifically connected to cross-border application. However, it is necessary to point out, that there are only few of such cases per year.
<b>VIEWS FROM ALL MEMBER STATES</b>	
20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.	No
21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.	No

## ESTONIA

### QUESTIONS

<b>ELIGIBILITY</b>	
1. Does your national law on state compensation operate on the basis of the principle of subsidiarity? In other words; is compensation only paid when it is not fully available from other sources? Please explain how the principle is applied.	The compensation shall be determined to the victims of the violence on the basis of the material damage caused by the crime of violence. Any amounts which as injured person (victim) receives or is entitled to receive as compensation for damage caused by the crime shall be deduced from the damage serving as the basis for the determining the amount of compensation, including the work ability allowance paid to the victim.
2.a) Which crimes are covered by the national law on state compensation in your country?	Compensation shall be paid to victims of violence, victims of trafficking in human beings and sexually abused minors.
2.b) Are crimes, not classified as intentional crimes of violence, also covered by the law? Please specify.	Yes. Victims have the right for compensations regardless if the crime was intentional or not. The state compensation of victims of violent crimes is payed to victims of crimes of violence who have

	<p>fallen victim of criminal offence, negligence or mistreatment or physical, mental or sexual abuse in order to maintain or enhance the ability to cope.</p> <p>Within the framework of provision of victim support services, a victim on an offence which is not a crime of violence has the right to receive compensation of the cost of psychological care in amount equal to up to one minimum monthly wage.</p>
3. Is your national law restricted to serious bodily injury or impairment of health, as stated in the Convention? If not, please specify.	<p>Yes, according to the Victim Support Act of Estonia a crime of violence is an act committed against the life or health of a person and as a result of which the injured person dies, sustains serious damage to his or her health, sustains a health disorder lasting for at least four month.</p>
4. Which elements of compensation are paid to victims by the State in your country? (for example, loss of earnings, medical and hospitalisation expenses, non-material compensation).	<p>The compensation shall be determined to the victims of the violence on the basis of the material damage caused by a crime of violence: 1) damage arising from incapacity for work decrement; 2) expenses incurred due to damage caused to victim health; 3) damage arising from the death of the victim; 4) damage caused to spectacles, dentures, contact lenses and other appliances substituting for bodily functions and to clothes; 5) the victim's funeral expenses.</p>
5.a) How is compensation to victims of violent crimes decided and calculated?	<p>The Victim Support Act provides the basis for state organisation of compensation to victims of crime of violence. As described above, any amounts which an victim receives or is entitled to receive as compensation for damage resulting from a crime of violence from a source other than the person liable for the damage caused by the crime shall be deducted from the damage serving as the basis for determining the amount of compensation, including the work ability allowance paid for the victim. The amount of compensation shall be 80 per cent of the material damage.</p> <p>Specific principles assigned to calculate damage arising from incapacity for work or work decrement and damage to health resulting from crime of violence. Damage arising from incapacity for work or work decrement shall be compensated for on the</p>

	<p>basis of average income per calendar day. The average income per calendar day shall be calculated by adding together the income subject to social tax calculated for the insured person during the six calendar months preceding the calendar month of the day on which the person is initially released from the performance of his or her duties according to his or her certificate of incapacity for work and dividing the result by the number of calendar days during the period (six months). Compensation shall be paid to persons between the age of 16 and the age of retirement who are not working or are unemployed at the time of falling victim to a crime of violence only in the case of partial or no work ability. Compensation shall be calculated on the basis of average income per calendar day calculated by dividing the minimum monthly wage established by the Government of the Republic by 30.</p> <p>Damage to health resulting from a crime of violence shall be ascertained by the Estonian National Social Insurance Board involving persons who have completed medical training. A person who has completed medical training shall ascertain: connection between a crime of violence and health damage; in the case of a working person in retirement age, abnormality in a function resulting from a crime of violence and the duration thereof.</p> <p>Additionally there is compensation for expenses incurred due to damage caused to victims health, funeral expenses and damage arising from death of victim. Expenses incurred due to damage caused to victim's health are the essential expenses related to the victim's medical treatment, medical rehabilitation, acquisition of medicinal products and appliances substituting for bodily functions, alleviation of post-traumatic physical and mental complications and teaching him or her a new speciality suitable for his or her state of health, and essential travel expenses related to the circumstances specified above. Funeral expenses compensation in the amount of 448 euros shall be paid to the person who bears the expenses relating to the funeral of a</p>
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	<p>victim of a crime of violence. The dependants of a victim who dies as a result of a crime of violence shall receive compensation based on the victim's previous income: 1) 75 per cent of the income in the case of one dependant; 2) 85 per cent in the case of two dependants; 3) a total of 100 per cent in the case of three or more dependants.</p>
<p>5.b) How are the provisions of Article 8 of the Convention reflected in your legislation and how are they applied?</p>	<p>According to Victim Support Act (§ 16) compensation shall not be paid if the victim caused or facilitated the commission of the crime or the occurrence of the damage by his or her intentional or reckless behaviour; the victim fails to give notice of the crime within 15 days, although he or she would have been capable of doing so, and the police have not become aware of the crime in any other way; the victim has been convicted of the commission of a crime of violence or on involvement in organised crime and information concerning his or her punishment has not been deleted from the punishment register; compensation shall not be paid if payment of compensation would be unfair or unjustified for the other reasons. In addition, payment of compensation may be refused if the applicant for compensation has refused to co-operate with the law enforcement authorities in ascertaining the facts relating to the criminal offence, identifying or apprehending the criminal offender or providing the damages.</p>
<p>5.c) Does your national law provide for the possibility to provide the applicant with advances on costs prior to the final decision on compensation? If yes, for which purpose and to what limits?</p>	<p>According to Victim Support Act (§ 22) there are possibilities to pay compensation in advance. Is a decision concerning payment of compensation is postponed the Estonian National Social Insurance Board has the right to make an advance payment on the basis of a request from the applicant for compensation if the applicant's right to receive compensation is clear and if he or she is in difficult economic situation. The amount of an advance payment shall not exceed 640 euros.</p>
<p>5.d) Does your national law prescribe a period of time in which to apply for compensation?</p>	<p>An application for state compensation to victims of crime may be submitted to the Estonian National Social Insurance Board within three years as of the</p>

	commission of the crime or the date of death of the victim.
6. Do victims of terrorism have any specific status in your domestic law?	Victims of terrorism do not have any specific status. The victims of a terrorism are handled as victim of a violence crime. Compensation shall be paid to victims of crimes of violence committed in the territory of republic of Estonia and to their dependants. In addition, the compensation shall be paid to the victims of a crime of violence committed abroad if the victim is a permanent resident of Estonia or an Estonian citizen who does not reside permanently in Estonia and was abroad for reasons related to studies, employment or service duties or for other good reasons and if the victim is not entitled to similar compensation under the law of the country where the crime was committed. If the victim dies, compensation shall be paid to a dependant who was permanently residing in the Republic of Estonia at the time when the crime of violence was committed.
<b>ACCESS TO JUSTICE</b>	
7. Which steps have been taken to ensure that information about the scheme is available to potential applicants?	The main channel for providing the information to victims is through victim support specialists when meeting with the victims. Information about compensation possibilities is provided on home page of Estonian National Social Insurance Board, but also on home pages of other relevant instances that are involved in victim support. Also relevant information brochures have been distributed through the victim support network.
8.a) Have measures been taken to assist victims in making an application for compensation?	Yes, victims are assisted by specialists.
8.b) To which competent authorities should applications for compensation be submitted?	Estonian National Social Insurance Board
8.c) Are applicants obliged to bear any legal expenses related to applications for compensation?	No
8.d) Do perpetrators have the status of a party in compensation proceedings?	No
9. Can decisions on State compensation be appealed against by the applicant?	Yes. If an applicant for compensation does not agree with the decision of the Estonian National Social Insurance Board, the applicant has the right to file a challenge with the Estonian National Social



	Insurance Board pursuant to the procedure provided for in the General Part of the Social Code Act or an appeal with an administrative court pursuant to the procedure provided for in the Code of Administrative Court Procedure.
10. Have studies been undertaken on the implementation of the domestic scheme for State compensation? If the answer is yes, what are the main results?	No
<b>THE CROSS-BORDER DIMENSION AND INTERNATIONAL CO-OPERATION</b>	
11. Are tourist victims or other individuals who are not permanent residents in your country but who are nationals of other Parties to the Convention and/or of Council of Europe member States, eligible for state compensation?	Yes. An alien is entitled to receive compensation if he or she: 1) resides in Estonia on the basis of a residence permit or right of residence of a long-term resident or a temporary residence permit or right of residence; 2) is a citizen of the European Union; 3) is a citizen of a state which is a party to the European Convention on Compensation of Victims of Violent Crimes; 4) is a person enjoying international protection staying in Estonia; 5) is a victim of trafficking in human beings or sexually abused minor, regardless of whether he or she has a legal basis for stay in the Republic of Estonia.
12. Are residents of countries that are not members of the Council of Europe, eligible for State compensation in your country?	See the answer on p.11
13. How is information about State compensation made available to cross-border victims?	Both Police officials and Social Insurance Board specialists informs victims about state compensations.
14. What legal basis do you use to ensure international co-operation? *For the European Union Member States, other than Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, what legal basis do you use to ensure international cooperation?	Victim Support Act
15. Has the administration of State compensation come across problems in the management of cross-border applications? If yes, please specify.	No
<b>VIEWS FROM ALL MEMBER STATES</b>	
20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.	-

21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.	-
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## FINLAND

### QUESTIONS

ELIGIBILITY	
1. Does your national law on state compensation operate on the basis of the principle of subsidiarity? In other words; is compensation only paid when it is not fully available from other sources? Please explain how the principle is applied.	The Finnish Crime Compensation Act (rikosvahinkolaki, 1204/2005) is based on the principle of subsidiarity. An amount paid to or evidently due to the applicant on the basis of the same injury or damage, in accordance to other legislation or voluntary insurance, shall be deducted from the compensation payable under the Act. The same applies to compensation the applicant has received or, according to a reasonably obtainable account, is entitled to receive, under the legislation of a foreign state. Damages payable by the offender shall only be deducted by the amount that has actually been paid. The same applies to compensation for legal costs received from the opposing side. The sum payable in the event of death on the basis of insurance is not deducted from the compensation to be paid under the Crime Compensation Act.
2.a) Which crimes are covered by the national law on state compensation in your country?	The Finnish law doesn't specify the crimes which are covered. Compensation is paid for personal injury and mental anguish caused by a criminal offence. In certain cases the law also covers material and financial loss due to a crime.
2.b) Are crimes, not classified as intentional crimes of violence, also covered by the law? Please specify.	See the answer above. The law covers all crimes of violence. Compensation for mental anguish is however only paid to a person whose sexual self-determination has been violated with a criminal offence, whose liberty has been violated by a criminal offence or, whose personal integrity is violated in a particularly serious manner by attempted manslaughter, murder or killing, by aggravated assault or its attempt or by other

	comparable criminal offence.
3. Is your national law restricted to serious bodily injury or impairment of health, as stated in the Convention? If not, please specify.	No, it is not. Also minor damages are compensated.
4. Which elements of compensation are paid to victims by the State in your country? (for example, loss of earnings, medical and hospitalisation expenses, non-material compensation).	<p>Under the Crime Compensation Act the victim can be compensated for necessary medical costs and other necessary costs, loss of income, pain and suffering and other temporary or permanent detriment as well as mental anguish.</p> <p>In the event of death the Finnish law covers compensation for funeral and associated expenses and compensation for loss of maintenance. A person closely associated to the deceased can be compensated for necessary medical costs and other necessary costs and loss of earnings caused by personal injury arising from the death of a closed one.</p> <p>An employer is compensated for salary or comparable remuneration paid by the employer during the disability of a person sustaining the personal injury.</p>
5.a) How is compensation to victims of violent crimes decided and calculated?	<p>In general the compensation is awarded according to the grounds laid down in the Tort Liability Act (412/1974). In addition, there are maximum amounts stated in the Crime Compensation Act (these amounts are revised at three-year intervals):</p> <ul style="list-style-type: none"> <li>- A maximum compensation paid for personal injury is 61 000 euros. Any regular instalments of compensation which are paid for loss of income or loss of maintenance are not included in the total amount.</li> <li>- A maximum total compensation paid for pain and suffering and other temporary disability is 12 000 euros.</li> <li>- Compensation paid for loss of income or paid to an employer may not exceed 150 euros per day.</li> <li>- Compensation paid to a person who is closely associated with the deceased may not exceed 6 000 euros.</li> <li>- Compensation paid for mental anguish may not exceed 3 500 euros. A victim of a sexual</li> </ul>

	<p>offence may nevertheless be awarded compensation up to 9 400 euros or, in the event that the victim was under 18 years of age at the time of the offence, up to 16 000 euros.</p> <p>- Compensation paid for property damage or financial loss may not exceed 30 500 euros</p> <p>No interest is paid on the compensation and a basic deduction of 210 euros is applied to the total amount of damages payable to a person for pain and suffering and other temporary or permanent disability and mental anguish.</p>
5.b) How are the provisions of Article 8 of the Convention reflected in your legislation and how are they applied?	The compensation may be adjusted on the basis of reasonableness if there has been a contribution to the injury or damage from the side of the person sustaining it.
5.c) Does your national law provide for the possibility to provide the applicant with advances on costs prior to the final decision on compensation? If yes, for which purpose and to what limits?	The applicant can be paid in advance compensation upon request if the applicant is evidently entitled to significant compensation (there are no restrictions for the purpose or the amount).
5.d) Does your national law prescribe a period of time in which to apply for compensation?	Compensation must be applied for within three years from the date of the final judgment in the compensation matter. If the case has not been heard by a court, compensation must be applied for within ten years of the commission of the offence. Compensation may be applied for even if the judgment is not yet final.
6. Do victims of terrorism have any specific status in your domestic law?	No, acts of terrorism would be handled as any crimes of violence.
<b>ACCESS TO JUSTICE</b>	
7. Which steps have been taken to ensure that information about the scheme is available to potential applicants?	<p>According to Chapter 11, Section 9 of the Criminal Investigation Act, if an injured party has suffered loss as a result of an offence, for which he or she would evidently be entitled to compensation in accordance with the Crime Compensation Act, the criminal investigation authority shall notify the injured party of the right to compensation and as necessary shall advise him or her in applying for compensation.</p> <p>In order to facilitate the above mentioned</p>

	<p>responsibility of the criminal investigation authority, the Ministry of Justice Finland has published an online-brochure called “Rights of a Crime Victim” in March 2017. The brochure provides information for crime victims on matters which they have the right to be informed about by the authorities. One of the themes in the brochure is compensations. The brochure can be downloaded <a href="#">here</a>. The brochure is available in Finnish, easy-to-read Finnish, Swedish, North Saami, English, Estonian, Russian, Sorani, Arabic and Somali.</p> <p>Information on compensations can also be found in an online-brochure called “If You Become a Victim of a Crime” published by the Ministry of Justice Finland. The brochure contains a separate subsection on compensations which can be found <a href="#">here</a>.</p> <p>The State Treasury provides information and instructions on compensation for victims of criminal damage on its <a href="#">website</a>. The State Treasury has published a brochure on compensation for victims of crime which is available in <a href="#">Finnish</a> and <a href="#">Swedish</a>. In addition to the information provided by the authorities, NGOs that help and support victims of crime also provide information on compensation related matters. See for example the <a href="#">website</a> of Victim Support Finland.</p>
8.a) Have measures been taken to assist victims in making an application for compensation?	<p>The State Treasury provides information on how to apply for compensation on its website. The customer service of the State Treasury may be contacted by phone (from 9.00 a.m. to 3.30 p.m. on weekdays), email, and securitised email or by using the Citizen’s Account. The customer service provides service in Finnish, Swedish and English. NGOs that help and support victims of crime give information and assist victims in making applications for compensation. See e.g. Victim Support Finland and Rape Crisis Centre Tukinainen.</p>
8.b) To which competent authorities should applications for compensation be submitted?	<p>The application shall be delivered to the State Treasury. The Application may also be submitted to a local office of the Social Insurance Institution of Finland to be further sent to the State Treasury.</p>

8.c) Are applicants obliged to bear any legal expenses related to applications for compensation?	<p>The right of the applicant to obtain damages from the person responsible for the injury or damage shall revert to the State on the date when the Treasury has made the decision to pay the compensation, and at most for the part that compensation is decided to be paid.</p> <p>There is no fee on submitting the application. The applicant can apply compensation himself/herself. If the applicant has been granted legal aid for the purpose of trying the matter in a court of law, he/she shall upon request be reimbursed for his/her reasonable application costs resulting from seeking compensation from the State Treasury. The same applies if the matter has not been tried in a court of law but the applicant meets the economic criteria set for obtaining legal aid.</p>
8.d) Do perpetrators have the status of a party in compensation proceedings?	For the part that compensation has been paid, the right of the applicant to obtain damages from the person responsible for the injury or damage reverts to the State. Otherwise the perpetrator has no status in compensation proceedings.
9. Can decisions on State compensation be appealed against by the applicant?	A decision of the State Treasury can be appealed by filing an appeal to the Insurance Court within the period of 30 days of service of notice of the decision. However, a decision concerning the payment of advance compensation cannot be subjected to an appeal. A decision of the Insurance Court cannot be subjected to an appeal.
10. Have studies been undertaken on the implementation of the domestic scheme for State compensation? If the answer is yes, what are the main results?	There is no such studies.
<b>THE CROSS-BORDER DIMENSION AND INTERNATIONAL CO-OPERATION</b>	
11. Are tourist victims or other individuals who are not permanent residents in your country but who are nationals of other Parties to the Convention and/or of Council of Europe member States, eligible for state compensation?	<p>If the victim was not, at the time of the offence taking place, a resident of Finland or another European Union Member State or, at the time of the application for compensation, does not have residence in Finland or in another European Union Member State and if the connection of the injury or damage to Finland is otherwise minor.</p> <p>In practice compensation is not paid if neither the victim nor the perpetrator has permanent residency in</p>

	Finland. If the connection of the injury or damage to Finland is “more than minor” it makes no difference what the nationality or residency of the victim is; the victim is eligible for State compensation.
12. Are residents of countries that are not members of the Council of Europe, eligible for State compensation in your country?	See the answer on question above.
13. How is information about State compensation made available to cross-border victims?	See the answer on question number 7. In addition there is the information provided by the European Commission on the European e-Justice Portal.
14. What legal basis do you use to ensure international co-operation? *For the European Union Member States, other than Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, what legal basis do you use to ensure international cooperation?	There is no other legal basis to ensure international co-operation relating to compensation to crime victims.
15. Has the administration of State compensation come across problems in the management of cross-border applications? If yes, please specify.	Finland hasn't had problems in this area.
<b>VIEWS FROM ALL MEMBER STATES</b>	
20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.	-
21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.	-

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## FRANCE

### QUESTIONS

RECEVABILITÉ	
1. Votre droit national consacré à l'indemnisation par l'Etat opère-t-il sur le fondement du principe de subsidiarité ? En d'autres termes, l'indemnisation est-elle uniquement payée lorsque celle-ci ne peut être	En principe, l'indemnisation des victimes d'infractions se fait par l'auteur de l'infraction lui-même. Le principe de subsidiarité ne s'applique donc pas.

<p>pleinement assurée par d'autres sources ? Merci d'expliquer la manière dont le principe est appliqué.</p>	<p>En revanche, en cas d'insolvabilité de l'auteur, de décès de l'auteur, d'auteur inconnu, en l'absence de poursuites pénales contre l'auteur, des dispositifs étatiques en faveur des victimes ont été créés en France.</p> <p>L'indemnisation est accordée par la commission d'indemnisation des victimes d'infractions (CIVI), et payée par le Fonds de garantie des victimes des actes de terrorisme et d'autres infractions (FGTI).</p> <p>Ces dispositions sont prévues par les articles 706-3 à 706-15-2 du code de procédure pénale (CPP).</p> <p>L'Etat permet ainsi aux victimes d'obtenir une indemnisation.</p> <p>Le fonds payeur sera ensuite subrogé dans les droits des victimes et peut obtenir paiement auprès de l'auteur des faits des sommes avancées le cas échéant.</p> <p>Enfin, il convient de faire état du Service d'Aide aux Recouvrements des Victimes d'Infractions (SARVI) qui permet donc aux victimes qui n'ont pas été réglées volontairement par le condamné des sommes accordées par le tribunal, d'en obtenir rapidement le paiement total ou partiel. Le SARVI se chargera de récupérer auprès du condamné le complément des sommes dues.</p> <p>Le SARVI est géré par le FGTI.</p> <p>Il est à noter qu'avec le SARVI, l'amélioration de l'indemnisation s'étend aux victimes qui ont subi de faibles préjudices corporels ou des préjudices matériels qui ne peuvent pas être indemnisées par la CIVI.</p>
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<p>2.a) Dans votre pays, quelles sont les infractions couvertes par le droit national consacré à l'indemnisation par l'Etat ?</p>	<p>La réponse est prévue aux articles 706-3, 706-14 et 706-14-1 du CPP.</p> <p>Article 706-3 du code de procédure pénale :</p> <ul style="list-style-type: none"> <li>- L'article 706-3 du CPP pose le principe d'une indemnisation intégrale des dommages résultant des atteintes à la personne, lorsque ce dommage est la conséquence de faits présentant le caractère matériel d'une infraction, qu'elle soit volontaire ou non.</li> </ul> <p>Cette indemnisation est subordonnée à une condition de gravité objective, les faits devant avoir entraîné « la mort, une incapacité permanente ou une incapacité totale de travail personnel égale ou supérieure à un mois ».</p> <p>Les victimes de certaines infractions, définies par cet article, sont également éligibles sans condition de gravité du dommage. Les articles listés sont relatifs aux agressions sexuelles (art. 222-22 à 222-30 du code pénal), aux atteintes sexuelles sur mineurs de quinze ans (art. 222-25 à 222-27 du code pénal), à la réduction en esclavage ou en servitude ainsi qu'à la traite des êtres humains (art. 224-1 A à 224-1 C, 225-4-1 à 225-4-5, 225-14-1 et 225-14-2 du code pénal).</p> <ul style="list-style-type: none"> <li>- L'article 706-14 du CPP est un dispositif d'indemnisation destiné aux victimes d'une atteinte aux biens ainsi qu'à certaines victimes d'atteintes aux personnes. Comme pour l'article 706-3 du même code, l'éligibilité au dispositif n'est pas subordonnée à des poursuites pénales contre l'auteur des faits.</li> </ul> <p>En premier lieu, le demandeur doit avoir été victime d'une infraction listée par cet article, soit le vol, l'escroquerie, l'abus de confiance, l'extorsion de fonds ou la destruction, la dégradation ou la détérioration d'un bien appartenant à la victime.</p> <p>L'accès au dispositif est enfin subordonné au fait que la victime n'arrive pas à bénéficier d'une indemnisation de son préjudice, et que la victime se trouve de ce fait dans « une situation matérielle ou psychologique grave ».</p> <p>Cet article est par ailleurs complémentaire du dispositif de l'article 706-3 : les victimes d'une atteinte à la personne ne pouvant bénéficier de cet article, parce que s'étant vu reconnaître une</p>
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	<p>incapacité temporaire de travail inférieure à 30 jours ou n'ayant pas eu d'incapacité permanente, sont expressément éligibles au dispositif de l'article 706-14, dans les mêmes conditions qu'exposé ci-dessus.</p> <p>- L'article 706-14-1 du CPP vise à indemniser spécifiquement les personnes victimes de la destruction par incendie d'un véhicule terrestre à moteur.</p> <p>Cet article est une déclinaison du mécanisme de l'article 706-14 du code de procédure pénale précité, en étant moins restrictif : il n'est plus exigé de rapporter l'existence d'une situation matérielle ou psychologique grave.</p>
2.b) Les infractions qui ne sont pas qualifiées comme étant des infractions intentionnelles de violence, sont-elles également couvertes par le droit ? Merci de préciser.	Oui, l'article 706-3 du CPP pose le principe d'une indemnisation intégrale des dommages résultant des atteintes à la personne, lorsque ce dommage est la conséquence de faits présentant le caractère matériel d'une infraction, qu'elle soit volontaire ou non.
3. Votre droit national est-il limité aux graves atteintes au corps ou à la santé comme énoncé dans la Convention ? Si tel n'est pas le cas, merci de préciser.	Non, le droit français ne se limite pas aux atteintes au corps ou à la santé. Comme mentionné ci-dessus l'article 706-14 du CPP vise les atteintes aux biens, et l'article 706-14-1 du CPP vise à indemniser spécifiquement les personnes victimes de la destruction par incendie d'un véhicule terrestre à moteur.
4. Dans votre pays, quels éléments d'indemnisation sont payés aux victimes par l'Etat (par exemple, la perte de gains, des frais médicaux et d'hospitalisation, une indemnisation non matérielle) ?	<p>Le principe qui prévaut est celui de la réparation intégrale du préjudice, qui vise à remettre la victime dans la situation la plus proche possible de celle existant avant la survenance du fait dommageable, sans créer, pour autant, un enrichissement sans cause.</p> <p>Les éléments d'indemnisation pris en compte sont les suivants selon la nomenclature utilisée en France :</p> <p>- Préjudices corporels de la victime directe</p> <p>1° Préjudices patrimoniaux</p> <p>a) préjudices patrimoniaux temporaires (avant consolidation) :</p> <p>- dépenses de santé actuelle</p>

	<ul style="list-style-type: none"> <li>- frais divers</li> <li>- pertes de gains professionnels actuels</li> </ul> <p>b) préjudices patrimoniaux permanents (après consolidation) :</p> <ul style="list-style-type: none"> <li>- dépenses de santé futures</li> <li>- frais de logement adapté</li> <li>- frais de véhicule adapté</li> <li>- assistance par tierce personne</li> <li>- pertes de gains professionnels futurs</li> <li>- incidence professionnelle</li> <li>- préjudice scolaire, universitaire ou de formation</li> </ul> <p>2° Préjudices extrapatrimoniaux</p> <p>a) préjudices extrapatrimoniaux temporaires (avant consolidation) :</p> <ul style="list-style-type: none"> <li>- déficit fonctionnel temporaire</li> <li>- souffrances endurées</li> <li>- préjudice esthétique temporaire</li> </ul> <p>b) préjudices extrapatrimoniaux permanents (après consolidation) :</p> <ul style="list-style-type: none"> <li>- déficit fonctionnel permanent</li> <li>- préjudice d'agrément</li> <li>- préjudice esthétique permanent</li> <li>- préjudice sexuel</li> <li>- préjudice d'établissement</li> <li>- préjudices permanents exceptionnels</li> </ul> <p>c) préjudices extrapatrimoniaux évolutifs (hors consolidation) :</p> <ul style="list-style-type: none"> <li>- préjudices liés à des pathologies évolutives</li> <li>- Préjudices des victimes indirectes (victimes par ricochet)</li> </ul> <p>1° Préjudices des victimes indirectes en cas de décès de la victime directe</p> <p>a) préjudices patrimoniaux</p> <ul style="list-style-type: none"> <li>- frais d'obsèques</li> <li>- pertes de revenus des proches</li> <li>- frais divers des proches</li> </ul> <p>b) préjudices extrapatrimoniaux</p> <ul style="list-style-type: none"> <li>- préjudice d'accompagnement</li> <li>- préjudice d'affection</li> </ul>
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	<p>2° Préjudices des victimes indirectes en cas de survie de la victime directe</p> <p>a) préjudices patrimoniaux</p> <ul style="list-style-type: none"> <li>- pertes de revenus des proches</li> <li>- frais divers des proches</li> </ul> <p>b) préjudices extrapatrimoniaux</p> <ul style="list-style-type: none"> <li>- préjudice d'affection</li> <li>- préjudices extrapatrimoniaux exceptionnels</li> </ul>
5.a) De quelle manière l'indemnisation des victimes d'infractions violentes est-elle décidée et calculée ?	<p>L'indemnisation de ces victimes d'atteintes violentes à la personne est décidée après une expertise médico-légale selon la nomenclature indicative ci-dessus.</p> <p>L'indemnisation est calculée par les juridictions selon un barème forfaitaire et au vu des justificatifs produits par la victime.</p>
5.b) Comment les dispositions de l'article 8 de la Convention ont-elles été transcrites dans votre législation et comment sont-elles appliquées ?	<p>Article 8 de la Convention européenne relative au dédommagement des victimes d'infractions violentes</p> <p>1 Le dédommagement peut être réduit ou supprimé en raison du comportement de la victime ou du requérant avant, pendant ou après l'infraction, ou en relation avec le dommage causé.</p> <p>2 Le dédommagement peut aussi être réduit ou supprimé si la victime ou le requérant est impliqué(e) dans la criminalité organisée ou appartient à une organisation qui se livre à des infractions de violence.</p> <p>3 Le dédommagement peut également être réduit ou supprimé dans le cas où une réparation, totale ou partielle, serait contraire au sens de la justice ou à l'ordre public.</p> <p>Selon les dispositions du dernier alinéa de l'article 706-3 du code de procédure pénale ,la réparation peut être refusée ou son montant réduit à raison de la faute de la victime.</p> <p>Le principe d'une réparation diminuée en raison de la faute de la victime a donné lieu à une jurisprudence abondante. Après avoir retenu une appréciation qui confinait parfois à une appréciation morale du comportement de la victime, la Cour de cassation a posé le principe selon lequel la faute de la victime devait être en relation directe avec le dommage (Civ, 2ème, 5 juillet 2006, pourvoi n° 05-</p>

	11.317).
5.c) Votre droit national prévoit-il la possibilité de fournir au requérant des avances sur les frais avant la décision finale sur l'indemnisation ? Si tel est le cas, à quelles fins et dans quelles limites ?	<p>Le droit national permet l'allocation de provisions, le plus souvent, en attente de la consolidation de l'état de santé de la victime.</p> <p>Ces avances permettent à la victime de commencer des soins, d'obtenir des moyens financiers pour assurer la gestion du quotidien par exemple : frais médicaux, funéraires, d'hospitalisation, de tierce personne ...)</p> <p>Aucune limitation n'est fixée, ces provisions sont appréciées tout au long de la procédure d'indemnisation et allouées en fonction de l'évolution de la situation de la victime.</p>
5.d) Votre droit national prévoit-il un certain délai pour présenter une demande d'indemnisation ?	<p>En l'absence de poursuites pénale, l'article 706-5 du code de procédure pénale précise que la demande d'indemnisation doit être présentée au cours des trois ans suivant la commission de l'infraction.</p> <p>Si en revanche des poursuites pénales sont engagées, ce délai est prorogé jusqu'à ce qu'une décision définitive intervienne. La victime dispose alors d'un an à compter de cette décision définitive pour saisir la CIVI d'une demande d'indemnisation.</p> <p>Les délais sont courts pour saisir la CIVI, mais une possibilité assez large est accordée à cette juridiction pour relever le requérant de la forclusion. L'article 706-5 du code de procédure pénale permet à la CIVI de relever le requérant de la forclusion « lorsqu'il n'a pas été en mesure de faire valoir ses droits dans les délais requis ou lorsqu'il a subi une aggravation de son préjudice ou pour tout autre motif légitime ».</p> <p>La décision de relevé de forclusion relève donc du pouvoir souverain des juges du fond.</p>
6. Les victimes du terrorisme ont-elles un statut spécifique dans votre droit interne ?	<p>L'article 26 de la loi n°90-86 du 23 janvier 1990 reconnaît aux victimes d'actes de terrorisme le bénéfice des droits et avantages accordés aux victimes civiles de guerre, bénéfice géré par le ministère de la Défense et notamment par l'Office National des Anciens Combattants (O.N.A.C.).</p> <p>De ce fait, elles bénéficient d'avantages sociaux spécifiques :</p> <p>Les enfants orphelins ayant perdu l'un de leurs</p>

	<p>parents dans un attentat ont la qualité de pupille de la Nation et les conjoints, conjointes, compagnons, compagnes ayant perdu leur époux / se, compagnon, compagne ont la qualité de veuf / veuve de guerre. Ces victimes bénéficient également de droits spécifiques : en matière fiscale, en matière de droits de succession, admission à l'aide juridictionnelle sans condition de ressources.</p> <p>Les victimes sont indemnisées directement par le FGTL.</p>
7. Quelles mesures ont été prises pour veiller à ce que les informations concernant le dispositif soient accessibles aux éventuels demandeurs ?	<p>L'Etat met, gratuitement, à la disposition des victimes d'infractions pénales de nombreux lieux d'accueil et d'information. Elles ont ainsi la possibilité de se rendre dans :</p> <ul style="list-style-type: none"> <li>• l'un des 165 bureaux d'aide aux victimes, implanté dans les Tribunaux de Grande Instance et géré par des associations d'aide aux victimes ;</li> <li>• les mairies, les maisons de la Justice et du droit, les tribunaux où des informations et des consultations sont données par des professionnels du droit ;</li> <li>• les commissariats, gendarmeries, les hôpitaux et les services sociaux qui organisent des permanences et des réunions d'information.</li> </ul> <p>Des guides et des fiches pratiques détaillées sont également accessibles, tout le long de la procédure, dans les structures précédemment évoquées. Elles évoquent, entre autre, les différentes situations auxquelles les victimes peuvent être confrontées.</p> <p>France Victime met également à disposition des victimes d'infractions pénales, le 08 victime (08 842 846 37), une plateforme téléphonique, ouverte 7 jours sur 7, composée d'écouter professionnels. L'objectif est d'écouter, d'informer les victimes sur leurs droits, de les orienter, et, si besoin de les mettre en relation avec une association d'aide aux victimes.</p> <p>Enfin, les victimes peuvent trouver des renseignements sur internet, et plus particulièrement sur :</p> <ul style="list-style-type: none"> <li>• le site du ministère de la justice : <a href="http://www.justice.gouv.fr">http://www.justice.gouv.fr</a>.</li> <li>• le site du ministère de l'intérieur</li> </ul>

	<p><a href="https://www.pre-plainte-en-ligne.gouv.fr">https://www.pre-plainte-en-ligne.gouv.fr</a></p> <ul style="list-style-type: none"> <li>• les sites des associations d'aide aux victimes (ex : France Victime, Citoyen et Justice) qui mènent des campagnes d'information.</li> </ul> <p>En matière de terrorisme :</p> <p>En situation d'attaque terroriste de masse, la Cellule interministérielle d'aide aux victimes (CIAV) peut être activée : 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 et le Parquet. Elle s'articule notamment :</p> <ul style="list-style-type: none"> <li>• autour de la réponse téléphonique à une ligne dédiée aux victimes et à leurs proches, qui permet de collecter les signalements de personnes recherchées,</li> <li>• autour d'un lieu d'accueil physique à savoir le centre d'accueil des familles (CAF) dans la commune touchée par l'attentat</li> </ul> <p>Postérieurement à la période, l'instruction interministérielle du 13 avril 2016 a prévu la mise en place d'un espace d'information et d'accompagnement des victimes (EIA), lieu d'accueil physique pérenne qui prends la suite du centre d'accueil des familles et qui met également à disposition des victimes une équipe pluridisciplinaire chargée de les informer sur leurs droits, de leur proposer un soutien psychologique et de les accompagner étroitement dans leurs différentes démarches .</p>
8.a) Des mesures ont-elles été prises pour aider les victimes à présenter une demande d'indemnisation ?	<p>Les dispositifs énoncés à la question précédente (tels que les bureaux d'aide aux victimes, le 08 victimes, les associations d'aide aux victimes, les avocats lors des permanences...), sont à l'écoute et prêt à aider les victimes dans leurs démarches et leur demande d'indemnisation.</p>
8.b) Quelles sont les autorités compétentes pour la présentation d'une demande d'indemnisation ?	<p>La victime peut présenter une demande devant toute juridiction civile et pénale.</p> <p>Elle peut saisir également dans le même temps une commission spécifique.</p> <p>En effet l'article 706-4 du CPP prévoit que la CIVI</p>

	<p>est composée de deux magistrats du siège du tribunal de grande instance et d'une personne majeure, de nationalité française et jouissant de ses droits civiques, s'étant signalée par l'intérêt qu'elle porte aux problèmes des victimes. Elle est présidée par l'un des magistrats.</p> <p>Les membres de la commission et leurs suppléants sont désignés pour une durée de trois ans par l'assemblée générale des magistrats du siège du tribunal.</p> <p>Les fonctions du ministère public sont exercées par le procureur de la République ou l'un de ses substituts.</p>
8.c) Le demandeur doit-il supporter des frais juridiques liés à la demande d'indemnisation ?	<p>La victime doit généralement faire l'avance des frais, sauf si elle bénéficie de l'aide juridictionnelle.</p> <p>Celle-ci est accordée de plein droit aux victimes de viol (article 9-2 loi n° 91-647 du 10 juillet 1991)</p>
8.d) L'auteur de l'infraction a-t-il le statut de partie à la procédure d'indemnisation ?	<p>L'auteur est effectivement une partie à la procédure.</p>
9. Les décisions relatives à l'indemnisation par l'Etat peuvent-elles faire l'objet d'un recours par le demandeur ?	<p>Les décisions de la CIVI sont susceptibles d'appel.</p> <p>Concernant l'offre du FGTI en matière de terrorisme, elle peut être contestée devant les juridictions civiles du lieu de l'infraction et du siège du FGTI (Créteil).</p>
10. Des études ont-elles été effectuées sur la mise en œuvre du dispositif interne d'indemnisation par l'Etat ? Si la réponse est positive, quelles en sont les principales conclusions ?	<p>Une évaluation du FGTI a été menée en 2016 et diverses propositions ont été suggérées.</p> <p>Elles sont en cours d'étude et de réalisation.</p>
11. Les touristes victimes ou d'autres individus, qui ne sont pas des résidents permanents de votre pays, mais qui sont des ressortissants d'autres Parties à la Convention et/ou d'Etats membres du Conseil de l'Europe sont-ils éligibles à l'indemnisation par l'Etat ?	<p>Oui, dans le cas où le séjour est régulier.</p> <p>En matière de terrorisme le FGTI indemnise les ressortissants européens</p>
12. Dans votre pays, les résidents de pays qui ne sont pas membres du Conseil de l'Europe sont-ils éligibles à l'indemnisation par l'Etat ?	<p>Oui, dans le cas où le séjour est régulier.</p> <p>En matière de terrorisme le FGTI indemnise également les ressortissants étrangers à l'Europe</p>
13. De quelle manière les informations concernant	<p>Des informations sont disponibles sur le portail e-justice de l'Union européenne.</p>



l'indemnisation par l'Etat sont-elles rendues accessibles aux victimes transfrontalières ?	Les magistrats de liaison sont susceptibles de faire le relais entre les juridictions françaises et les victimes de retour dans leur pays de résidence.
14. Quel fondement juridique utilisez-vous pour assurer la coopération internationale ? *Pour les Etats membres de l'Union européenne, quel fondement juridique, autre que la Directive 2004/80/CE du Conseil du 29 avril 2004 relative à l'indemnisation des victimes de la criminalité, utilisez-vous pour assurer la coopération internationale ?	- La directive victimes du 15 octobre 2012, transposée en droit français -A compter de 2018, nous utiliserons également la directive 2017/541 du 15 mars 2017 relative à la lutte contre le terrorisme et qui contient des dispositions spécifiques relatives aux victimes de terrorisme.
15. L'administration chargée de l'indemnisation par l'Etat a-t-elle rencontré des problèmes dans la gestion de demandes transfrontalières ? Si tel est le cas, merci de préciser.	Le bureau d'aide aux victimes a organisé une réunion le 07/06/2017 à la demande du FGTI qui souhaitait la liste des points de contacts du réseau européen d'indemnisation (Directive de 2004). Le bureau a communiqué la liste des contacts du réseau européen des droits des victimes (ENVR) , réseau dans lequel le bureau est fortement impliqué.
<b>POINTS DE VUE DE TOUS LES ETATS MEMBRES</b>	
20. Seriez-vous en faveur d'une mise à jour de la Convention européenne relative au dédommagement des victimes d'infractions violentes (STE n° 116) par le biais d'un Protocole additionnel ou un Protocole y portant amendement ? Si tel est le cas, merci de préciser ce que devrait couvrir une telle mise à jour ou un tel amendement.	Il faudrait que la Convention européenne relative au dédommagement des victimes d'infractions violentes soit moins restrictive en matière d'indemnisation. Elle devrait contenir un protocole additionnel prévoyant notamment l'indemnisation des préjudices moraux et économiques des victimes et des proches de victimes décédées ou lourdement atteintes.
21. Préférez-vous l'élaboration d'une recommandation avec des lignes directrices qui complètent la Convention ? Si tel est le cas, merci de préciser ce que ces lignes directrices devraient couvrir.	Un avenant ou un protocole additionnel paraissent plus adaptés qu'une recommandation.

## GREECE (n'est pas partie à la Convention)

### QUESTIONS

16. Is your government considering ratifying the Convention?	Greece has signed the above mentioned convention on the 24/11/1983 but it is not ratified yet. Its ratification is not planned to be done in the near future.
17. Has legislation been enacted on compensation from the State to victims of violent crimes? Is it available in English?	<p>The relevant legislation is Law 3811/2009 (Official Gazette 231 A/18.11.2009) as amended by the Laws 4198/13 (Official Gazette 215 A/11.10.2013) and 4267/2014 (Official Gazette 137 A/12.6.2014) with which the Directive 2004/80/EC of the Council of the EU relating to compensation to crime victims and article 20 of the Directive 2011/93/EU of the European Parliament and of the Council on combating the sexual abuse and sexual exploitation of children and child pornography were implemented.</p> <p>Also relevant is the Law 1897/1990 (Official Gazette 120 A/11.9.1990) as amended by Law 4285/2014 (Official Gazette 191 A/10.9.2014) which covers the compensation of victims of terrorist acts and other violent crimes.</p> <p>Unfortunately the texts are not available in English.</p>
18. Are victims of crime in your country covered by State compensation irrespective of their nationality or residence, or are there restrictions as to the territorial scope of application?	The compensation of victims of violent crimes depends on their residence and the territory of the commission of the crime. They are covered only if they reside in Greece or in a member state of the European Union and the crime was committed in Greece (article 3 par. 1 of the Law 3811/2009).
19. Is your government considering proposals in order to improve the status of victims of violent crimes? If yes, please specify.	In our opinion there is no need for an update of the Convention ETS No 116 nor for a relevant recommendation.
<b>VIEWS FROM ALL MEMBER STATES</b>	
20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.	In our opinion there is no need for an update of the Convention ETS No 116 nor for a relevant recommendation.

21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.	In our opinion there is no need for an update of the Convention ETS No 116 nor for a relevant recommendation.
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## IRELAND (n'est pas partie à la Convention)

### QUESTIONS

16. Is your government considering ratifying the Convention?	We are not aware that ratification is envisaged.
17. Has legislation been enacted on compensation from the State to victims of violent crimes? Is it available in English?	The Scheme of Compensation for Personal Injuries Criminally inflicted which pre-dates the 1983 Convention is non-statutory.
18. Are victims of crime in your country covered by State compensation irrespective of their nationality or residence, or are there restrictions as to the territorial scope of application?	Any person, irrespective of nationality or usual place of residence, who suffers a personal injury as a result of a crime of violence in the State may make an application for compensation to the Criminal Injuries Compensation Tribunal.
19. Is your government considering proposals in order to improve the status of victims of violent crimes? If yes, please specify.	No. However, this is an important issue for our Government.

### VIEWS FROM ALL MEMBER STATES

20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.	We have no view on this.
21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.	We have no view on this.

## LATVIA (n'est pas partie à la Convention)

### QUESTIONS

16. Is your government considering ratifying the Convention?	The issue of joining the Convention has not been discussed in the government of Latvia.
17. Has legislation been enacted on compensation from the State to victims of violent crimes? Is it available in English?	<p>Several mechanisms have been introduced in the field of compensation from the state to victims of violent crimes, like state compensation to victims of crime, state guaranteed legal aid and free helpline for victims of crime that provides informational and psychological support.</p> <p>With regards to the legislation the law "On state compensation on victims" (hereinafter – Law) guarantees major rights of the victims of violent crimes for receiving state compensation. This Law contains legal norms arising from Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims and Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.</p> <p>Law and other related information is available for public in Latvian and also in English following these links: reference to the national official publication <a href="https://likumi.lv/doc.php?id=136683">https://likumi.lv/doc.php?id=136683</a> and Legal Aid Administration <a href="#">website</a>.</p>
18. Are victims of crime in your country covered by State compensation irrespective of their nationality or residence, or are there restrictions as to the territorial scope of application?	Section 1 of the Law states that natural person who, in accordance with the procedures laid down in the Criminal Procedure Law, has been recognised a victim, receives rights to State compensation for moral injury, physical suffering or financial loss resulting from an intentional criminal offence. According to the third part of section 3 of the Law the right to the State compensation shall exist:

	<ul style="list-style-type: none"> <li>- if as a result of an intentional criminal offence the death of the person has occurred,</li> <li>- severe or moderate bodily injuries to the victim have been caused,</li> <li>- morality or sexual inviolability of the person has been violated,</li> <li>- the victim is a victim of trafficking in human beings,</li> <li>- the victim has been infected with human immunodeficiency virus, Hepatitis B or C.</li> </ul> <p>In accordance with the Law every person, who is subject to the Law, irrespective of their nationality have right to apply for State compensation. Likewise victims of crime can request the compensation in accordance with the Criminal Procedure Law and the Civil Procedure Law if Latvia.</p> <p>According to the chapter III of the Law the state compensation to the victims should be paid also in cross border cases when injury has occurred as a result of a committed criminal offence in the territory of Latvia and when injury has occurred as a result of a criminal offence in the territory of another European Union member state.</p> <p>When injury has occurred as a result of a committed criminal offence in the territory of Latvia the Legal Aid Administration takes the decision on the request of a long-term resident of another European Union member state to pay a compensation regarding the injury that has occurred as a result of a criminal offence in the territory of Latvia. The Law allows to submit the request in Latvian or English and it should be dealt in the procedure established in the Law.</p> <p>When injury has occurred as a result of a criminal offence in the territory of another European Union member state the victim who is a long-term resident of Latvia and to whom an injury has occurred as a result of a criminal offence in the territory of</p>
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	<p>another European Union member state has the right to directly or through the Legal Aid Administration submit the request for the state compensation to the competent authority of the relevant European Union member state. The Legal Aid Administration draws up the request for the state compensation in conformity with the request for the compensation determined by a particular European Union member state and together with other necessary documents shall send them to the competent authority of the relevant European Union member state, that deals with request according to its own legal acts.</p>
<p>19. Is your government considering proposals in order to improve the status of victims of violent crimes? If yes, please specify.</p>	<p>Latvian competent authorities in the field on state compensation of victims of violent crimes have considered the necessity to start working on the amendments of the Law in order to increase the amount of state compensation paid to the victim of the crime and extend the scope of people, who could have the right to receive this compensation. Meanwhile Latvian competent authorities are acknowledging that in order to implement these ideas it is necessary to have sufficient funds in the state budget which are not available at this stage. Work on the amendments to the respective Law will be taken forward when required funding will be allocated.</p>
<b>VIEWS FROM ALL MEMBER STATES</b>	
<p>20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.</p>	<p>Taking into account that there was no discussion regarding joining the Convention we are not able submit any comments on this point.</p>
<p>21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.</p>	<p>Taking into account that there was no discussion regarding joining the Convention we are not able submit any comments on this point.</p>

## LITHUANIA

QUESTIONS	
16. Is your government considering ratifying the Convention?	The national scheme on compensation to victims of violent crimes was adopted implementing Council Directive 2004/80/EC of 29 April 2004 of the Council of the European Union relating to compensation to crime victims. Therefore, at this point our government is not considering ratifying the Convention.
17. Has legislation been enacted on compensation from the State to victims of violent crimes?	The national scheme on compensation to victims of violent crimes is set out in Law on Compensation for Damage Caused by Violent Crimes.
Is it available in English?	Unfortunately, the official translation of this law is not available in English.
18. Are victims of crime in your country covered by State compensation irrespective of their nationality or residence, or are there restrictions as to the territorial scope of application?	<b>A person is recognized as a victim if he/she is</b> a citizen of the Republic of Lithuania, a citizen of another EU Member State, any other person that has a lawful permanent residence in the Republic of Lithuania or in any other Member State of the European Union and, in cases provided for in the international agreements of the Republic of Lithuania, another person who has suffered from a violent crime.
19. Is your government considering proposals in order to improve the status of victims of violent crimes? If yes, please specify.	The Ministry of Justice of the Republic of Lithuania has recently developed a new wording of the Law on Compensation for Damage Caused by Violent Crimes, which in the nearest future will be submitted to the Government of the Republic of Lithuania.
VIEWS FROM ALL MEMBER STATES	
20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.	From our point of view, an additional or an amending protocol could cover a partial unification of all national schemes on compensation.
21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.	No.

## QUESTIONS

ELIGIBILITY	
1. Does your national law on state compensation operate on the basis of the principle of subsidiarity? In other words; is compensation only paid when it is not fully available from other sources? Please explain how the principle is applied.	<p>To qualify for compensation, Maltese citizens, citizens of one of the Member States of the European Union and persons who are habitual residents of Malta are entitled to claim compensation for the criminal injuries they have sustained so long as such injuries were subject to criminal proceedings or reported to the Police without delay. This state of fact has been entrenched with the promulgation and coming into force of the provisions of Legal Notice 139 of 2012, (as amended by Act XVIII of 2013 and Legal Notice 139 of 2016) Subsidiary Legislation 9.12 entitled Criminal Injuries Compensation Scheme Regulations, namely Regulation 7.</p> <p>Under these Regulations, it is a right to seek compensation for any damage suffered. An application for compensation shall be submitted in the form as specified in the Schedule. Indeed, applications shall be accompanied by a police report and shall be submitted by not later than one year from when the violent intentional crime was committed. In fact, such an application together with the necessary documentation shall be submitted to the Assisting Officer who shall then forward it to the Claims Officer who shall determine awards and payments of compensation. The law itself in fact thought of setting up the role of an 'Assisting Officer' precisely so as to assist in the filling up and receipt of applications and to assist in their evaluation.</p> <p>It is specifically stated, that the Claims Officer may, at his discretion, request any other additional evidence with the purpose, among other things, to ensure that compensation has not been awarded or will not be awarded from any other source including, if need be, an affidavit by the applicant and may call the applicant to be medically examined</p>



	<p>or re-examined.</p> <p>If an individual does not qualify under this Scheme, then one may still claim compensation from the offender, or, if Criminal proceedings are ongoing, ask the Court to issue a compensation order.</p>
2.a) Which crimes are covered by the national law on state compensation in your country?	<p>Regulation 6 of Legal Notice 186 of 2012 (S.L. 9.12 Criminal Injuries Compensation Scheme Regulations) provides that it is only crimes classified as intentional crimes of violence that are covered. Regulation 2 delineates the crimes namely:</p> <ul style="list-style-type: none"> <li>- Rape or carnal knowledge with violence (Article 198 of the Criminal Code)</li> <li>- Instigation with violence of persons under age to prostitution or to participation in a pornographic performance (Article 204A (1) of the Criminal Code)</li> <li>- Wilful homicide (Article 211 of the Criminal Code)</li> <li>- Grievous bodily harm (Article 216 of the Criminal Code)</li> <li>- Trafficking of a person of age and under age for the purpose of exploitation in the production of goods or provision of services, for the purposes of exploitation in prostitution or in the removal of organs (Articles 248A to D of the Criminal Code)</li> <li>- Arson (Articles 316 and 317) where as a result thereof a person perishes or suffers grievous bodily harm</li> </ul>
2.b) Are crimes, not classified as intentional crimes of violence, also covered by the law? Please specify.	Kindly refer to the reply under 2a.
3. Is your national law restricted to serious bodily injury or impairment of health, as stated in the Convention? If not, please specify	As noted in reply to question 2a, national law goes beyond serious bodily injury or impairment of health and include other crimes enlisted in reply to question 2a.
4. Which elements of compensation are paid to victims by the State in your country? (for example, loss of earnings, medical and hospitalisation expenses, non-material compensation).	<ul style="list-style-type: none"> <li>• personal injury /medical expenses ;</li> <li>• the cost of repairing or replacing damaged property;</li> <li>• any losses namely that of earnings;</li> <li>• damages;</li> <li>• other expenses incurred as a result of the</li> </ul>

	criminal injury sustained against proof thereof.
5.a) How is compensation to victims of violent crimes decided and calculated?	<p>The law specifically dealing with this aspect is Legal Notice 190 of 2007, promulgated on the 20 July, 2007 with subsequent promulgation of Legal Notice 139 of 2016 mentioned above [Subsidiary Legislation 912 of 29 May 2012] [The legal provisions thereof implement the provisions of Council Directive 2004/80/EC relating to compensation to crime victims].</p> <p>As is to be expected, not all crimes give rise to compensation for the victims thereof. Eligibility is statutorily limited to criminal injuries sustained on or after 1st January, 2006.</p> <p>As a starting point and as indicated above in reply to question 1, persons entitled to compensation are those mentioned under Regulation 9 (1) and (2). Following the submission of an application, as per established Schedule and with all needed documentation, as outlined, the Claims Officer's staff will process applications in the first instance and may seek all relevant information as to the circumstances of the criminal injury from the applicant or otherwise.</p> <p>The Claims Officer is the final legal authority to determine all claims for compensation for criminal injuries.</p> <p>In fact, the Claims Officer, has the authority to withhold or reduce an award as clearly stated under Regulation 10 (a) to (g), that is when:</p> <ul style="list-style-type: none"> <li>(a) the applicant failed to take, without delay, all reasonable steps to inform the police, or other body or person considered by the Claims Officer to be appropriate for the purpose, of the circumstances giving rise to the crime; or</li> <li>(b) the applicant failed to co-operate with the police or other authority in attempting to bring the assailant to justice; or</li> <li>(c) the applicant has failed to give all reasonable assistance to the Claims Officer or other body or person in connection with the application; or</li> <li>(d) the conduct of the applicant before, during or</li> </ul>

	<p>after the incident giving rise to the application makes it inappropriate that a full award or any award at all be made; or</p> <p>(e) the applicant's character as shown by his criminal convictions or by evidence available to the Claims Officer makes it inappropriate that a full award or any award at all be made; or</p> <p>(f) the victim was jointly or partially responsible for the criminal injury sustained; or</p> <p>(g) the conduct of the victim, his character or his way of life, makes it appropriate to do so.</p> <p>These elements are all taken into consideration when it comes for the Claims Officer to decide for compensation.</p> <p>There is surely no compensation awarded in the following circumstances:</p> <p>(a) the criminal injury was sustained before 1st January 2006;</p> <p>(b) the Claims Officer is of the opinion that the offender is not indigent or unless proof has been produced that legal action to claim compensation has proved to be fruitless;</p> <p>(c) the applicant has not, in the opinion of the Claims Officer, provided all reasonable assistance and information required for the purposes of these Regulations;</p> <p>(d) the applicant was responsible for the criminal injury sustained because of provocation or any other action of his own;</p> <p>(e) the Claims Officer is satisfied that the conduct of the victim, his character or his way of life, make it inappropriate that he should be granted an award.</p> <p>Further to the above, where the Criminal Court, by virtue of article 532A of the Criminal Code (which provides for the order of payment of damages upon a sentence), has already established the compensation due to the victim(s) of the crime, the Claims Officer will not assess that claim but will proceed to pay compensation subject to the provisions of the Legal Notice.</p> <p>The standard of proof, which the Claims Officer will</p>
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	<p>apply for the determination of any claim, shall be on a balance of probabilities.</p> <p>The method of payment for compensation will be by way of a lump sum payment, rather than a periodical pension, although it will be open to the Claims Officer to make an interim award and to postpone making a final award in a case in which a final medical assessment of the injury is delayed. As specifically provided under the Regulations, no payment to any claimant shall exceed the sum of twenty-three thousand and three hundred euro (€ 23,300) Euros and such sum shall not be exceeded where there is more than one claimant by virtue of the same crime. Such payments received by the claimants shall be considered to be part of the civil damages sustained. Indeed, it is the Claims Officer who shall be entitled to make any arrangements that he considers desirable for the administration of money he awards as compensation.</p>
<p>5.b) How are the provisions of Article 8 of the Convention reflected in your legislation and how are they applied?</p>	<p>Article 8 of the Convention is reflected in Regulation 10 of the above mentioned Legal Notice, which provides that (as indicated above):</p> <p>The Claims Officer may withhold or reduce an award where he considers that:</p> <ul style="list-style-type: none"> <li>(a) the applicant failed to take, without delay, all reasonable steps to inform the police, or other body or person considered by the Claims Officer to be appropriate for the purpose, of the circumstances giving rise to the crime; or</li> <li>(b) the applicant failed to co-operate with the police or other authority in attempting to bring the assailant to justice; or</li> <li>(c) the applicant has failed to give all reasonable assistance to the Claims Officer or other body or person in connection with the application; or</li> <li>(d) the conduct of the applicant before, during or after the incident giving rise to the application makes it inappropriate that a full award or any award at all be made; or</li> <li>(e) the applicant's character as shown by his criminal convictions or by evidence available to the</li> </ul>

	<p>Claims Officer makes it inappropriate that a full award or any award at all be made; or</p> <p>(f) the victim was jointly or partially responsible for the criminal injury sustained; or</p> <p>(g) the conduct of the victim, his character or his way of life, makes it appropriate to do so</p>
5.c) Does your national law provide for the possibility to provide the applicant with advances on costs prior to the final decision on compensation? If yes, for which purpose and to what limits?	The general rule is that compensation is paid by way of a lump sum, rather than a periodical pension, however the Claims Officer has the discretion to make an interim award and to postpone making a final award in a case in which a final medical assessment of the criminal injury is delayed.
5.d) Does your national law prescribe a period of time in which to apply for compensation?	Applications shall be submitted to the Claims Officer by not later than one year from when the violent intentional crime was committed.
6. Do victims of terrorism have any specific status in your domestic law?	Chapter 539 of the Laws of Malta (Victims of Crime Act) provides that the Minister responsible for the welfare of victims of crime shall, make provision for the timely and individual assessment of victims who suffered from severe crimes, including crimes committed with a bias or discriminatory motive which could in particular, be related to their particular characteristics, and victims whose relationship to and dependence on the offender make them particularly vulnerable and which list includes victims of terrorism.
<b>ACCESS TO JUSTICE</b>	
7. Which steps have been taken to ensure that information about the scheme is available to potential applicants?	Information is already available online: <a href="http://www.vso.org.mt/facts-and-info/compensation">http://www.vso.org.mt/facts-and-info/compensation</a> . More information on this scheme is intended to be included in the link referring to the Department of Justice when this is launched.
8.a) Have measures been taken to assist victims in making an application for compensation?	Yes kindly refer to the reply of question number 1. Moreover, Legal Aid Malta assigns legal aid lawyers to victims of crime to assist them in this manner.
8.b) To which competent authorities should applications for compensation be submitted?	Applications for compensation under these regulations shall be submitted in a form attached to Legal Notice 186 of 2012. The application shall be

	submitted to the Assisting Office who is appointed by the Minister for Justice who shall then forward it to the Claims Officer, in this case the Attorney General.
8.c) Are applicants obliged to bear any legal expenses related to applications for compensation?	Any legal expenses incurred during the proceeding instituted by the Government of Malta against the perpetrator for the latter to reimburse the former are not borne by the applicant (the victim).
8.d) Do perpetrators have the status of a party in compensation proceedings?	Compensation agreements are only entered into between the Minister for Justice and the Minister for Finance or their representatives together with the victim. The victim subrogates his or her right towards the Government in Malta who in turn can institute legal proceedings against the perpetrator who will then have a status of a party in compensation proceedings.
9. Can decisions on State compensation be appealed against by the applicant?	The law does not cater for such an appeal.
10. Have studies been undertaken on the implementation of the domestic scheme for State compensation? If the answer is yes, what are the main results?	No studies were undertaken on the implementation of the domestic scheme for State compensation.
<b>THE CROSS-BORDER DIMENSION AND INTERNATIONAL CO-OPERATION</b>	
11. Are tourist victims or other individuals who are not permanent residents in your country but who are nationals of other Parties to the Convention and/or of Council of Europe member States, eligible for state compensation?	Yes as already indicated above in both questions 1 and 5a
12. Are residents of countries that are not members of the Council of Europe, eligible for State compensation in your country?	Persons who are habitually resident in Malta are entitled for compensation.
13. How is information about State compensation made available to cross-border victims?	The necessary information is available in the following website <a href="#">link</a>
14. What legal basis do you use to ensure international co-operation? *For the European Union Member States, other than Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, what legal basis do you use to ensure international cooperation?	Legal basis mainly consists of easily available exchange of information as well as implementing improving measures when shortcomings are identified.
15. Has the administration of State compensation come across problems in the management of cross-border applications? If yes, please specify.	No problems have ever been encountered.

#### IEWS FROM ALL MEMBER STATES

20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.	An update could easily cover the uniformity of national legislation covering substantial and procedural aspects in affording compensation to victims of crime.
21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.	Any such guidelines should cover the aspects mentioned in the reply to question number 20.

### REPUBLIC OF MOLDOVA (n'est pas partie à la Convention)

#### QUESTIONS

16. Is your government considering ratifying the Convention?	The competent national authorities are currently working on improving the national and international legal framework predestined to regulate the compensation of victims of crime.
17. Has legislation been enacted on compensation from the State to victims of violent crimes?	<p>On July 29, 2017, the Parliament of the Republic of Moldova adopted the Law no. 137 on the rehabilitation of victims of crime. The mentioned law establishes at Article 2 par. (5) the obligation of the state to rehabilitate the victims of the crimes, including the ones committed by violence, by providing the following support services: information counseling, psychological counseling, state guaranteed legal assistance, financial compensation by the state for the damage caused by the offense.</p> <p>According to Article 3 paragraph (1) of the Law no. 137, the central administrative authority that elaborates, promotes and participates in the implementation of Government policy in the field of rehabilitation of victims of crime is the Ministry of Labor, Social Protection and Family.</p> <p>The Secretariat of the Interdepartmental Commission for the financial compensation by the state of the damage caused by the offense is provided by the Ministry of Justice.</p>
Is it available in English?	No

18. Are victims of crime in your country covered by State compensation irrespective of their nationality or residence, or are there restrictions as to the territorial scope of application?	Under Article 13 par. (1) and (2) of Law no. 137 of 29 July 2016 on the rehabilitation of the victims of crime, the right to financial compensation has the victim of a crime committed on the territory of the Republic of Moldova who is a national or foreign citizen or stateless person legally present on the territory of the Republic of Moldova at the time of the offense committing and seeks financial compensation and, in the case of victims who do not belong to the mentioned categories of persons, the financial compensation is granted on the basis of international conventions to which the Republic of Moldova is a party.
19. Is your government considering proposals in order to improve the status of victims of violent crimes? If yes, please specify.	When drafting the Law no. 137 of 29 July 2016 on the rehabilitation of the victims of crime, the legislation of other states, the international legal instruments and the standards relevant to the subject until the adoption of the said law, including the status of victims of violent crimes, were consulted. In this respect, have been taken into account the provisions of the European Convention on the Compensation of Victims of Violent Crimes (Strasbourg, 24 November 1983), Recommendation R (85) 11 on Victim's Position in Criminal Law and Criminal Procedure, European Commission Communication "Victims of Crime in the European Union European Reflections on Standards and Action "(14 July 1999), the European Council Framework Decision on the Position of Victims in Criminal Procedure (15 March 2001), the Green Paper on Compensation to Victims of Crime of the European Commission (28 September 2001), European Council Directive nr. 2004/80 / EC of 20 April 2004 on the compensation of victims of crime.
<b>VIEWS FROM ALL MEMBER STATES</b>	
20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.	-
21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.	-



## QUESTIONS

ELIGIBILITY	
1. Does your national law on state compensation operate on the basis of the principle of subsidiarity? In other words; is compensation only paid when it is not fully available from other sources? Please explain how the principle is applied.	<p>Within the request for financial compensation shall be submitted a certificate on obtaining financial compensations, or other financial compensations obtained by a victim on other legal grounds, which affects the amount of financial compensation that will be adjudicated in the event of the adoption of the request for financial compensation. If a victim obtains incomes from a health, pension or other insurance or on other grounds, financial compensation shall be reduced by the total amount of those incomes.</p> <p>The law on Compensation of Victims of Violent Crimes has adopted by Parliament of Montenegro on 26 June 2015 and shall be applied on the day on which Montenegro accedes to the European Union. Bearing in mind the new standards contained in the Law, a longer period is needed in order to achieve all the preconditions for adequate implementation. Also, the comparative experiences of the countries in the region show that there is a similar timeframe in the procedure of preparing the undertaken obligations through harmonized legislation.</p>
2.a) Which crimes are covered by the national law on state compensation in your country?	Criminal offences committed by the use of physical force or other actions that damage psychological integrity, criminal offences against sexual freedom; criminal offences of causing danger to life or the body of people or to property by dangerous actions or objects resulting in death, serious bodily injury or serious damage of the physical and mental health of one or more persons;
3. Is your national law restricted to serious bodily injury or impairment of health, as stated in the Convention? If not, please specify.	The Law applies to cases when a victim of criminal offence is dead, if he/she has serious bodily injury or serious damage of physical and mental health.
4. Which elements of compensation are paid to victims by the State in your country? (for example, loss of earnings, medical and hospitalisation expenses,	Victims shall be paid the following elements: lost wages, health care costs, medical costs, hospitalization costs, and funeral costs. Also,

non-material compensation).	concerning cases when the death of a victim occurs, a person who was supported by a victim, in accordance with the Law governing family relations (hereinafter: a supported person), is entitled to the aforementioned financial compensation and right to financial compensation due to the loss of legal support.
5.a) How is compensation to victims of violent crimes decided and calculated?	The right to financial compensation shall be determined by the Commission for the Financial compensation of Victims of Violent criminal offences, appointed by the Government of Montenegro, on the basis of the submitted evidence. The Commission may request state and other authorities, legal and natural persons who have information and documents on the circumstances and facts relevant for decision making, to provide this information and documents, without financial compensation, within the required deadline. Exceptionally, in order to determine the factual situation, the Commission may interrogate the applicant and witnesses, as well as determine the expert's assessment. The decision on the request for financial compensation shall be made by the Commission by majority votes of all members within three months from the date of receipt of the full request for financial compensation, and regarding complex cases, the decision shall be made within six months from the date of receipt of the full request for financial compensation. If the grounds for obtaining financial compensation and the amount of financial compensation cannot be determined without the facts and circumstances set out within the criminal proceeding which has been terminated in a final decision, the decision shall be made within three months from the date on which the decision in that proceeding becomes final. When making decision on the right to financial compensation and

	<p>the amount of financial compensation the following shall be particularly appreciated: a victim's behavior before, at the time and after the perpetration of the violent criminal offence; the influence of a victim to the occurrence and extent of the damage; the existence of reasonable grounds why a victim has not reported the violent criminal offence to the Police or the State Prosecutor's Office; cooperation of a victim with the Police and the State Prosecutor's Office during the detection or prosecution of the perpetrator of the violent criminal offence, and the financial condition of a victim or supported persons.</p>
<p>5.b) How are the provisions of Article 8 of the Convention reflected in your legislation and how are they applied?</p>	<p>The amount of financial compensation shall be reduced or the request for financial compensation shall be rejected if a victim has caused the damage to occur or be greater than it would otherwise have been; contrary to public order, the principle of justice or morality, even if a victim is a member of a criminal organization, or criminal association.</p>
<p>5.c) Does your national law provide for the possibility to provide the applicant with advances on costs prior to the final decision on compensation? If yes, for which purpose and to what limits?</p>	<p>Shall not be stipulated.</p>
<p>5.d) Does your national law prescribe a period of time in which to apply for compensation?</p>	<p>The request for financial compensation shall be submitted not later than six months from the date when the violent criminal offence was committed on the occasion of which the request for financial compensation is submitted. If, due to health reasons, a victim is unable to submit the request for financial compensation within the specified deadline, the request shall be submitted not later than three months after the date when the reasons for which a victim was unable to submit the request cease to be valid, and within a period of three years from the date when the violent criminal offence was committed. If a victim is a minor or a person deprived of legal capacity and his legal representative has not submitted the request for</p>

	financial compensation within six months, the six-month deadline begins on the date when the person turns 18 years of age or on the date when it is determined that again he/she becomes capable of work.
6. Do victims of terrorism have any specific status in your domestic law?	-
<b>ACCESS TO JUSTICE</b>	
7. Which steps have been taken to ensure that information about the scheme is available to potential applicants?	The Police, State Prosecutors' Offices and courts shall be obliged to provide a victim or supported person information on the right to financial compensation and about the authority to which they may address concerning the exercise of that right. Information shall be given verbally, whenever possible in a language understood by a victim or a supported person, and in writing in the Montenegrin or English language.
8.a) Have measures been taken to assist victims in making an application for compensation?	The Police, State Prosecutors' Offices and Ministry shall be obliged to provide a victim or a supported person a form for submitting a request and, upon their request, to provide instructions and information on how to fill in the application form and which documentation is necessary to be submitted with the request. The Ministry in Montenegrin and English shall provide information on the right to financial compensation, conditions and procedure for exercising this right that shall be submitted to the above mentioned authorities and may also be submitted to other legal entities who, when performing their duties, interact with victims or supported persons.
8.b) To which competent authorities should applications for compensation be submitted?	The procedure for exercising the right to financial compensation of damage shall be initiated by a written request submitted to the Ministry of Justice.
8.c) Are applicants obliged to bear any legal expenses related to applications for compensation?	Shall not bear legal costs.
8.d) Do perpetrators have the status of a party in compensation proceedings?	The state is the other party in the proceeding, and by the payment of financial compensation to a victim or a supported person, the rights of a victim or a supported person to the perpetrator of the violent criminal offence up to the amount of the paid financial compensation shall be transferred to the state of

	Montenegro.
9. Can decisions on State compensation be appealed against by the applicant?	An administrative dispute may be initiated against a decision.
10. Have studies been undertaken on the implementation of the domestic scheme for State compensation? If the answer is yes, what are the main results?	Heaving in mind that the law on Compensation of Victims of Violent Crimes shall be applied on the day on which Montenegro accedes to the European Union, the studies will be prepared later.
<b>THE CROSS-BORDER DIMENSION AND INTERNATIONAL CO-OPERATION</b>	
11. Are tourist victims or other individuals who are not permanent residents in your country but who are nationals of other Parties to the Convention and/or of Council of Europe member States, eligible for state compensation?	The right to compensation shall belong to the victim who is:  - a national of Montenegro; - a national of a State Party to the European Convention on the Compensation of Victims of Violent Crimes;
12. Are residents of countries that are not members of the Council of Europe, eligible for State compensation in your country?	- a national of a member state of the Council of Europe with permanent residence in Montenegro;
13. How is information about State compensation made available to cross-border victims?	- a national of a member state of the European Union.
14. What legal basis do you use to ensure international co-operation? *For the European Union Member States, other than Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, what legal basis do you use to ensure international cooperation?	-
15. Has the administration of State compensation come across problems in the management of cross-border applications? If yes, please specify.	-
<b>VIEWS FROM ALL MEMBER STATES</b>	
20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.	-
21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.	Yes

QUESTIONS

ELIGIBILITY	
1. Does your national law on state compensation operate on the basis of the principle of subsidiarity? In other words; is compensation only paid when it is not fully available from other sources? Please explain how the principle is applied.	When the national damage fund awards contributions the fund takes in account the damage compensation that the victim can get (or has received) by means of a civil law claim and takes in account other damage compensations that have been paid or can be paid to the victim as a consequence of the crime.
2.a) Which crimes are covered by the national law on state compensation in your country?	Violence that was committed intentionally and has lead to serious physical or mental harm; if this crime was committed in the Netherlands or aboard a Dutch vessel or airplane outside the Netherlands. In 2016 criminal negligence causing death was added, in the interest of surviving relatives.
2.b) Are crimes, not classified as intentional crimes of violence, also covered by the law? Please specify.	Yes. In case the victim died as a victim of a violent offence the surviving relatives can get compensation. These relatives also can receive compensation if the victim died because of infringement of article 6 of the Road traffic act (Wegenverkeerswet). (This article forbids anyone who participates in traffic to behave in such a way that an accident happens for which he is culpable and another person is killed because of this accident or this inflicts serious physical injury to another person, or this inflicts such an injury that it causes a temporary disease or inability in the daily exercise of his activities) or because of culpability for the death of someone else, including recklessness.
3. Is your national law restricted to serious bodily injury or impairment of health, as stated in the Convention? If not, please specify.	The law concerns serious physical or mental health harm of victims and surviving relatives.
4. Which elements of compensation are paid to victims by the State in your country? (for example, loss of earnings, medical and hospitalisation expenses, non-material compensation).	The partial compensation is for the injuries suffered (compensation for pain and suffering) and for any financial damages suffered as a result of the crime. Examples are the costs of medical assistance, psychological counselling and a loss of income

	<p>resulting from the injuries. Rather than calculating an exact amount, we use fixed standard amounts. Furthermore there is a certain compensation for surviving relatives concerning the loss of income and the costs of interment.</p>
5.a) How is compensation to victims of violent crimes decided and calculated?	<p>The compensation is always a fixed amount. This amount is linked to one of the six injury categories that the Compensation Fund uses. We determine within which category the victims physical and/or psychological injuries fall, on the basis of the severity of the injuries, the consequences thereof and the circumstances of the violent crime. The more serious the injuries, the circumstances and the consequences, the higher the category and the accompanying amount. Payments may range from €1.000 up to €35.000.</p>
5.b) How are the provisions of Article 8 of the Convention reflected in your legislation and how are they applied?	<p>These provisions are reflected in article 5 of our Law (Wet schadefonds geweldsmisdrijven) which says that a compensation can be lowered or refused when the victim is (partly) to blame for the damage resulting the violent crime. We do not have special regulations on the situations stated in article 8.2 and 8.3, but can be taken in consideration in the decision.</p> <p>For instance, if the victim was the first to use violence, has challenged somebody or took part in criminal activities, then the victim is (partly) to blame for the damage resulting from the violent crime. In these cases he or she may not get (full) compensation. Depending on the part of the victim a reduction of 25, 50, 75 can be decided or compensation can totally be denied.</p>
5.c) Does your national law provide for the possibility to provide the applicant with advances on costs prior to the final decision on compensation? If yes, for which purpose and to what limits?	<p>Yes. Article 13 of our Law states that our Commission can decide to grant a partial compensation in advance. The purpose is to give a partial compensation (within weeks) to a victim who is in need, for example to pay for necessary medical treatment. The amount is €1000,00 but can in some cases be higher.</p>
5.d) Does your national law prescribe a period of time in which to apply for compensation?	<p>The term is ten years after the crime.</p>
6. Do victims of terrorism have any specific status in	<p>No. Terrorist offences are determined by the aim of</p>

your domestic law?	the perpetrator. There is in principle no difference with other offences concerning damage.
<b>ACCESS TO JUSTICE</b>	
7. Which steps have been taken to ensure that information about the scheme is available to potential applicants?	All victims reporting a crime to the police are informed by the police about their rights verbally and in print. This includes that the Violent Offences Compensation Fund gives financial compensation to people who have become a victim of a serious violent crime. All victims of serious crimes are referred to Victim Support by the police unless they object. Among other things Victim Support informs victims about the possibilities to apply for compensation.
8.a) Have measures been taken to assist victims in making an application for compensation?	Information on how to make an application is available on the website of the Violent Offences Compensation Fund, as well as a digital application form. Victim Support will help victims who need assistance in making an application. This assistance is free of charge.
8.b) To which competent authorities should applications for compensation be submitted?	To the Violent Offences Compensation Fund, an independent government body.
8.c) Are applicants obliged to bear any legal expenses related to applications for compensation?	There are no legal expenses attached to making an application.
8.d) Do perpetrators have the status of a party in compensation proceedings?	Perpetrators only have the status of a party in court proceedings, not when a victim applies to the Violent Offences Compensation Fund.
9. Can decisions on State compensation be appealed against by the applicant?	Decisions on State compensation can be appealed against. Firstly with an appeal to the Board of the Violent Offences Compensation Fund and secondly to court. In the final instance there is a remedy at the Administrative Law Department of the Council of State.
10. Have studies been undertaken on the implementation of the domestic scheme for State compensation? If the answer is yes, what are the main results?	An overall evaluation of the Violent Offences Compensation Fund has been conducted in 1988. After that only aspects of the compensation scheme have been evaluated. The main results of research into compensation to victims in general are: - to receive compensation is important for victims to make the feel recognized as a victim, even if the height of the compensation doesn't match the



	<p>damages and injuries;</p> <p>- preferably the compensation has to be paid by the perpetrator, but State compensation is welcomed as well</p>
<b>THE CROSS-BORDER DIMENSION AND INTERNATIONAL CO-OPERATION</b>	
11. Are tourist victims or other individuals who are not permanent residents in your country but who are nationals of other Parties to the Convention and/or of Council of Europe member States, eligible for state compensation?	Yes. Criterion is that the offence was committed in the Netherlands of aboard a Dutch vessel or airplane.
12. Are residents of countries that are not members of the Council of Europe, eligible for State compensation in your country?	Yes. Criterion is that the offence was committed in the Netherlands or aboard a Dutch vessel or airplane.
13. How is information about State compensation made available to cross-border victims?	Trough Victim support, Police, the website of the Violent Offences Compensation Fund, medical personnel, and other organizations.
14. What legal basis do you use to ensure international co-operation? *For the European Union Member States, other than Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, what legal basis do you use to ensure international cooperation?	Article 26 of the 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; OJ, L 315.
15. Has the administration of State compensation come across problems in the management of cross-border applications? If yes, please specify.	<p>Yes, we have experienced some problems in assisting applicants in different countries.</p> <p>In general there is a lack of recent and correct information about the authorities and possibilities to successfully file an application. We would welcome a general overview of the laws and policies in the different member states.</p> <p>In one case we understood that there is a possibility to file an application in Greece, but that a fee has to be paid locally in Greece. For obvious reasons this is impractical. In Spain compensation can be granted if the victims income is reduced to a specific minimum. This minimum is below the social benefits in the Netherlands so in fact no Dutch victim in Spain has the possibility for compensation.</p>
<b>VIEWS FROM ALL MEMBER STATES</b>	
20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an	There are no apparent improvements that can be achieved by an update.

update or amendment should cover.	
21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.	We do not want guidelines but an overview of all compensations schemes and recommendations based on good practices could encourage cooperation on a voluntary basis.

## NORWAY

### QUESTIONS

ELIGIBILITY	
1. Does your national law on state compensation operate on the basis of the principle of subsidiarity? In other words; is compensation only paid when it is not fully available from other sources? Please explain how the principle is applied.	Our national laws and regulations regarding state compensation to victims of violent crimes operate on the basis of subsidiarity. Compensation is, however, not only paid when it is not fully available from other sources; instead financial benefits the applicant has been granted or is entitled to as a consequence of the injury elsewhere, will be deducted from the state compensation. The applicant has a responsibility to limit the loss by seeking to get it compensated through established arrangements, i.e. insurance, pension or social welfare. Where the offender is sentenced for the crime or when he or she has accepted a penalty notice, the state may take action for recourse against the offender. The state pays the compensation in advance, which means that the applicant does not need to claim the perpetrator before the application is being processed.
2.a) Which crimes are covered by the national law on state compensation in your country?	The State awards compensation and damages for personal injuries inflicted by violation of the Criminal Code, hereunder violent crimes that threaten or infringe upon life, health or liberty. This includes for example bodily harm, threats and coercion, detention, trafficking, sexual offences, sexual intercourse with children under the age of 16, and maltreatment in close relations. The State further awards compensation to children who have witnessed violence in close relations.
2.b) Are crimes, not classified as intentional crimes of violence, also covered by the law? Please specify.	Unintentional crimes can be covered, but as a general rule not accidents. Personal injuries occurring in connection with assistance to the police

	during arrest or in connection with acts done for the purpose of lawful arrest by a private citizen or prevention of criminal offences are covered by the law.
3. Is your national law restricted to serious bodily injury or impairment of health, as stated in the Convention? If not, please specify.	Norwegian national law is not restricted to serious bodily injury or impairment of health. The term «personal injury» as stated in the Norwegian law refers to both bodily injury and impairment of health, such as physiological injuries and injuries that might manifest at a later stage, and minor injuries are also included. Personal injuries may, in exceptions, be presumed in cases where the victim suffers physiological damages due to serious violent crimes, especially when the applicant is a child who has been abused.
4. Which elements of compensation are paid to victims by the State in your country? (for example, loss of earnings, medical and hospitalisation expenses, non-material compensation).	<p>4. Pecuniary damages:</p> <ul style="list-style-type: none"> <li>- Loss of earnings</li> <li>- Loss of dependency (for the bereaved)</li> <li>- Expenses for housekeeping such as housecleaning and maintenance</li> <li>- Additional expenses caused by the personal injury. Practical examples: <ul style="list-style-type: none"> <li>o Medical expenses</li> <li>o Travel expenses</li> <li>o Clothes and other personal items worn at the time of the crime</li> <li>o Expenses to expert opinions</li> <li>o Legal expenses relating to the application</li> </ul> </li> </ul> <p>Non-pecuniary damages:</p> <ul style="list-style-type: none"> <li>- Compensation for permanent injury</li> <li>- Compensation for pain and suffering</li> </ul>
5.a) How is compensation to victims of violent crimes decided and calculated?	Overall the victims are entitled to full compensation in accordance to the Norwegian Damages law, but full compensation for both pecuniary damages and non-pecuniary damages is in accordance to the Compensation for Victims of Crime Act limited to 60 times the basic amount in the National Insurance scheme («Grunnbeløpet i folketrygden», often referred to as G). As per 1 May 2017, 1 G amounts to

	NOK 93 634. The compensation for non-pecuniary damages, like permanent injury, is calculated according to the extent of the injury and life expectancy. The size of the compensation for pain and suffering is largely based on protracted and firm practice from court in similar cases.
5.b) How are the provisions of Article 8 of the Convention reflected in your legislation and how are they applied?	Article 10 in the Compensation for Victims of Violent Crime Act states that compensation may be reduced or refused due to the aggrieved party's complicit in accordance to the Act relating to Compensation in Certain Circumstances section 5-1. When calculating the reduction the authorities consider the victims complicity, the extent of the injury and the circumstances surrounding the incident. The more severe injury, the less reduction is normally made. Damages and personal injuries as a result of violence related to organized crime is generally refused.
5.c) Does your national law provide for the possibility to provide the applicant with advances on costs prior to the final decision on compensation? If yes, for which purpose and to what limits?	In certain cases the Compensation for Victims of Violent Crime Act provides for the possibility to grant the applicant with advances on costs relating to an expert opinion prior the final decision on compensation. This is usually done when the applicant has a strained financial situation which is directly related to the crime. In addition it must be fairly certain that the applicant is entitled to compensation and that the expert opinion will contribute thereto. If the application cannot be determined due to reasons outside the applicants control, the authorities might, within reasonable extent, grant a prepayment before the final decision is made.
5.d) Does your national law prescribe a period of time in which to apply for compensation?	In terms of limitation, the Compensation for Victims of Violent Crime Act refers to the Act Relating to the Limitation Period for Claims. Consequently the application for compensation must be submitted within three years after the applicant got sufficient knowledge of the damages and the respondent. Claims brought after this period of limitation, will be statute-barred. Regardless of this general limitation

	<p>period, it is sufficient that the application is submitted before the period of limitation in the Penal Code is reached. This period of limitation depends on what actions presumably have taken place. If a final and enforceable judgement has been rendered in the criminal case, the three-year period of limitation applies. Victims may under any circumstances and regardless of the time lapsed, apply until they turn 21 years of age.</p>
6. Do victims of terrorism have any specific status in your domestic law?	<p>Victims of terrorism does not have any specific status in our domestic law.</p>
<b>ACCESS TO JUSTICE</b>	
7. Which steps have been taken to ensure that information about the scheme is available to potential applicants?	<p>The victim has to report the crime for which he or she is seeking compensation, to the police before the claim can be processed. When receiving the report, the police authorities are obliged to inform victims about the possibility to apply for state compensation. Information about the scheme is found on internet at <a href="http://www.voldsoffererstatning.no">www.voldsoffererstatning.no</a> and other relevant platforms.</p>
8.a) Have measures been taken to assist victims in making an application for compensation?	<p>Victims can get assistance with the application by The Service for Victims of Crime, a public service for individuals who have been subjected to violence or other criminal activity. The organisation is currently administered by the Norwegian Criminal Injuries Compensation Authority, but will be implemented into the police authorities during 2017. In addition, several free legal aid organisations offer assistance with the application and provide free legal aid to almost half of those claiming compensation for violent crimes.</p>
8.b) To which competent authorities should applications for compensation be submitted?	<p>Applications should be submitted to the Norwegian Criminal Injuries Compensation Authority (Kontoret for Voldsoffererstatning), P.O. Box 253, 9951 Vardø. Electronic application is recommended and available at this <a href="#">link</a></p>
8.c) Are applicants obliged to bear any legal expenses related to applications for compensation?	<p>Legal expenses can be covered under the compensation scheme to the extent they are reasonable and necessary, and provided that the general conditions for allowing compensation are</p>

	<p>fulfilled. In criminal cases regarding serious crime or crime which has resulted in serious injury, the victims are usually provided with a «bistandsadvokat», a legal counsel to represent their interest in the case by the state against the perpetrator. This includes any civil claims against the perpetrator and state compensation. Due to the principle of subsidiarity, the compensation scheme will not cover legal fees in these cases. Reasonable and necessary legal costs in connection with a complaint might be covered if the complaint leads to a better result for the applicator.</p>
8.d) Do perpetrators have the status of a party in compensation proceedings?	<p>The perpetrator does not have the status of a party in the case regarding the victims' application for compensation. However, when the State takes actions to subrogate the victims claim against the perpetrator, the perpetrator obtain status as a party in the recourse case. The State can only go forward with a recourse claim when guilt has been established, usually in a sentence or a fine.</p>
9. Can decisions on State compensation be appealed against by the applicant?	<p>Decisions within the scope of the Compensation for Victims of Violent Crime Act made by the Norwegian Criminal Injuries Compensation Authority, may be appealed to the Appeals Board for Victims of Violent Crime.</p>
10. Have studies been undertaken on the implementation of the domestic scheme for State compensation? If the answer is yes, what are the main results?	<p>10. There have been several studies relating to the implementation of the domestic scheme for state compensation and the law has been subject to review a numerous times. The latest examination was carried out by The Criminal Injuries Compensation Committee (The Committee) in 2016 and resulted in Official Norwegian Report (NOU) 2016: 9. The Committee was appointed by the government to examine the scheme for compensation of victims of violent crimes and undertook a broad review of the scheme. A number of areas for improvements were identified and a new draft act was proposed. A summary in English can be found on the pages 20 – 22 in the <a href="#">Official Norwegian Report</a></p>
<b>THE CROSS-BORDER DIMENSION AND INTERNATIONAL CO-OPERATION</b>	
11. Are tourist victims or other individuals who are not	<p>The rights are not dependent on nationality of the</p>

permanent residents in your country but who are nationals of other Parties to the Convention and/or of Council of Europe member States, eligible for state compensation?	victims. Tourists and other individuals who are not permanent residents in Norway, but who are nationals of other Parties to the Convention and/or of the Council of Europe member states, are also eligible for state compensation; assuming the criminal acts took place in Norway.
12. Are residents of countries that are not members of the Council of Europe, eligible for State compensation in your country?	The rights are not dependent on nationality of the victims. Also residents of countries that are not members of the Council of Europe are eligible for State compensation in Norway; assuming the criminal acts took place in Norway.
13. How is information about State compensation made available to cross-border victims?	Information about State compensation is given on the homepage of The Norwegian Criminal Injuries Compensation Authority. Brochures about the scheme are translated and available in several languages at <a href="http://www.voldsoffererstatning.no">www.voldsoffererstatning.no</a> . When receiving a report on a violent crime that threaten or infringe upon life, health or liberty, the police authorities are obliged to inform victims about the possibility to apply for state compensation.
14. What legal basis do you use to ensure international co-operation? *For the European Union Member States, other than Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, what legal basis do you use to ensure international cooperation?	The legal basis to ensure international co-operation is based on The European Convention on the Compensation of Victims of Violent Crimes of 24 November 1983 Article 12.
15. Has the administration of State compensation come across problems in the management of cross-border applications? If yes, please specify.	Over all the administration as such has experienced few problems in the management of cross-border applications.
<b>VIEWS FROM ALL MEMBER STATES</b>	
20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.	<p>Norway would like to express its support for an update of the European Convention on Compensation of Victims of Violent Crimes (ETS No. 116) and we allow ourselves to propose amendments to the following three articles:</p> <p>a. Article 4 of the Convention The Norwegian Compensation for Victims of Violent Crime Act encompass non-pecuniary losses; including for Norwegian victims of crime committed abroad. We would like to propose that Article 4 in the Convention should be extended to include this type of coverage.</p>



	<p>b. Article 5 of the Convention</p> <p>Article 5 states that the compensation scheme may, if necessary, set for any or all elements of compensation an upper limit above which and a minimum threshold below which such compensation shall not be granted. Considering the subsidiarity of the States' contribution; as described in Article 2, we would like to propose an addition which states that these limits must be wide enough to ensure the victims a fair possibility to get their losses compensated.</p> <p>c. Article 6 of the Convention</p> <p>According to this article, the compensation scheme may specify a period within which any application for compensation must be made. In order to give the victim a fair possibility to obtain compensation from the state in which the crime took place, we would like to propose an amendment which determine a lower limit for this period.</p>
21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.	<p>Finally, we believe that it would be helpful with simple guidelines to the applicants as to where to send the application when the crime is committed abroad and a brief summary of the extent of the convention and the victim's minimum rights to be fulfilled by each of the member parties. An obligation for the Member States to see to that such guidelines exist, could be added to the Convention. Further, to secure well-functioning international co-operation; as well as predictability for the victims, there should also be an updated and easily accessible common database containing information about each Member State's compensation scheme and a possibility to send electronic applications.</p>

## POLAND (n'est pas partie à la Convention)

### QUESTIONS

ELIGIBILITY	
1. Does your national law on state compensation operate on the basis of the principle of subsidiarity? In	State compensation is regulated by the law of 7 July 2005 on the state compensation to victims of certain illegal acts. Compensation is subsidiary to damages



other words; is compensation only paid when it is not fully available from other sources? Please explain how the principle is applied.	pursuant to the Civil Code and the Penal Code. It is awarded if a victim cannot obtain considerations from the offender or from other sources indicated explicitly in the law (i.e. from insurance or from social assistance funds). Moreover, the State Treasury has a right to claim for the return of money paid from the perpetrator.
2.a) Which crimes are covered by the national law on state compensation in your country?  2.b) Are crimes, not classified as intentional crimes of violence, also covered by the law? Please specify.	The law does not envisage any catalogue of crimes. Moreover, it is possible to award a compensation also in cases when an act was committed unintentionally.
3. Is your national law restricted to serious bodily injury or impairment of health, as stated in the Convention? If not, please specify.	The condition for compensation is death of a victim or a serious bodily injury or impairment of the bodily function or the disturbance to health lasting more than 7 days.
4. Which elements of compensation are paid to victims by the State in your country? (for example, loss of earnings, medical and hospitalisation expenses, non-material compensation).	Compensation covers: 1) lost earnings or other means of subsistence (but not lost profits, as it is the case with damages pursuant to the Civil Code), 2) costs connected with medical treatment and rehabilitation (but not damages for a non-material damage, as it is the case with damages pursuant to the Civil Code), 3) costs of a funeral
5.a) How is compensation to victims of violent crimes decided and calculated?	A Polish court decides on the compensation on the basis of documents: notification of an offence, decisions produced in criminal proceedings, medical certificates or court experts opinions concerning the injuries suffered by the victim and other documents confirming the information on the amount of lost earnings or costs covered. If it is impossible or very difficult to prove their exact amount, the court can adjudicate the amount of compensation according to its own assessment based on consideration of all circumstances of the case.
5.b) How are the provisions of Article 8 of the Convention reflected in your legislation and how are	The compensation is not awarded or is awarded in a reduced amount if a victim contributed to the

they applied?	committal of an offence. The compensation is refused if a victim was an accomplice in an offence or reconciles with the risk that he/she will feel the effects of an offence.
5.c) Does your national law provide for the possibility to provide the applicant with advances on costs prior to the final decision on compensation? If yes, for which purpose and to what limits?	No
5.d) Does your national law prescribe a period of time in which to apply for compensation?	Yes, 3 years from the date where the effects of an act were manifested and in any case no later than 5 years from the committal of an act.
6. Do victims of terrorism have any specific status in your domestic law?	No
<b>ACCESS TO JUSTICE</b>	
7. Which steps have been taken to ensure that information about the scheme is available to potential applicants?	Basic information about compensation is handled to the victim during the first hearing at the police. Moreover the information about compensation is available at the website of the Ministry of Justice and other judicial bodies.
8.a) Have measures been taken to assist victims in making an application for compensation?	Prosecutors are obliged by the law to inform victims how to fill in an application form for compensation.
8.b) To which competent authorities should applications for compensation be submitted?	The motion for compensation should be submitted to a court.
8.c) Are applicants obliged to bear any legal expenses related to applications for compensation?	No
8.d) Do perpetrators have the status of a party in compensation proceedings?	No
9. Can decisions on State compensation be appealed against by the applicant?	Yes
10. Have studies been undertaken on the implementation of the domestic scheme for State compensation? If the answer is yes, what are the main results?	Yes. The main results were that: the compensation was usually awarded in a nominal value, the period for submitting a motion for compensation was too short. Therefore, the law on compensation was amended. The amended law raised the limits for the compensation and prolong the time for submitting the motions.
<b>THE CROSS-BORDER DIMENSION AND INTERNATIONAL CO-OPERATION</b>	
11. Are tourist victims or other individuals who are not	Yes, the compensation can be awarded to victims who

permanent residents in your country but who are nationals of other Parties to the Convention and/or of Council of Europe member States, eligible for state compensation?	have permanent residence in EU countries.
12. Are residents of countries that are not members of the Council of Europe, eligible for State compensation in your country?	No
13. How is information about State compensation made available to cross-border victims?	A prosecutor informs a victim on the possibility and conditions for compensation, makes the form for compensation available and advises on how to fill in the form.
14. What legal basis do you use to ensure international co-operation? *For the European Union Member States, other than Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, what legal basis do you use to ensure international cooperation?	As regards the cooperation with EU member states there is no need to use other instruments than the directive since it is sufficient for the exchange of documents and information or hearing a victim.
15. Has the administration of State compensation come across problems in the management of cross-border applications? If yes, please specify.	-
<b>QUESTIONS FOR STATES THAT ARE NOT PARTIES TO THE CONVENTION</b>	
16. Is your government considering ratifying the Convention?	No
17. Has legislation been enacted on compensation from the State to victims of violent crimes? Is it available in English?	Legislation on compensation has been enacted as a result of implementation of Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims. It is not available in English.
18. Are victims of crime in your country covered by State compensation irrespective of their nationality or residence, or are there restrictions as to the territorial scope of application?	The application of law is restricted to the victims who have permanent residence in EU countries.
19. Is your government considering proposals in order to improve the status of victims of violent crimes? If yes, please specify.	Polish state compensation law has been recently amended in 2016 therefore at present it is crucial to evaluate the changes and then formulate possible new proposals that would ameliorate the status of the victim.
<b>VIEWS FROM ALL MEMBER STATES</b>	
20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.	-
21. Would you prefer the development of a recommendation with guidelines complementing the	-

Convention? If so, please specify what these guidelines should cover.	
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## PORTUGAL

As introductory remark, it should be referred that are in force in Portugal the following laws:

- Law no 130/2015, of 4 September, approving the Victim's Statute, transposing EU Directive 2012/29/EU, 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
- Law no 104/2009, of 17 September, approving the regime for the compensation for victims of violent crime and domestic violence.

### QUESTIONS

ELIGIBILITY	
1. Does your national law on state compensation operate on the basis of the principle of subsidiarity? In other words; is compensation only paid when it is not fully available from other sources? Please explain how the principle is applied.	<p>YES.</p> <p>The duty to compensate rests in first hand on the perpetrator of the crime, ie, the offender. However, in certain circumstances and because of the economic difficulties in which the victim stays as result of the crime and the impossibility of a timely compensation by the offender, the State may concede a provisory compensation or to the payment of the compensation when it can not be borne by the offender and provided that the injury has caused considerable disruption to the level and quality of life of the victim, pursuant to Article 2 (1) (a) and (b) of Law no 104/2009, of 14 of September.</p>
2.a) Which crimes are covered by the national law on state compensation in your country?	Victims of violent and especially violent crimes, ie those identified in Article 1 (j) and (l) of the Code of Criminal Procedure, may be compensated or advanced in compensation.
2.b) Are crimes, not classified as intentional crimes of violence, also covered by the law? Please specify.	As far as State compensation is concerned, only crimes committed with dolum are susceptible of compensation or advanced in compensation, as

	<p>results from Article 1 (j) and (l) of the Code of Criminal Procedure.</p> <p>That to say, only violent crimes committed with an intention may be compensated, in particular conducts that are intentionally directed against life, physical integrity, personal freedom, sexual freedom and self-determination or public authority and are punishable by imprisonment of a maximum of 5 years or more, as well as the conducts involving crimes of criminal organization, trafficking in persons, trafficking in arms, trafficking in narcotic drugs or psychotropic substances, corruption, trade in influence, economic participation in business or money laundering.</p>
<p>3. Is your national law restricted to serious bodily injury or impairment of health, as stated in the Convention? If not, please specify.</p>	<p>In criminal proceedings, the victim is entitled to compensation from the offender. It is the so-called principle of adhesion, that is, the claim for civil damages based on the commission of a crime is deduced in the respective criminal proceedings, and can only be filed separately before a civil court, in cases provided for by law.</p> <p>Article 129 of the Criminal Code provides that compensation for damages arising out of a crime is regulated by civil law, applying here the principles set out in Articles 483 et seq of the Civil Code.</p> <p>It follows from the same article that the victim has the right to be compensated by the offender for the material and moral damages that he / she caused. Thus, the facts that are the subject of criminal proceedings may also be grounds for civil liability, while prejudicing interests that may be repaid in accordance with the civil law.</p>
<p>4. Which elements of compensation are paid to victims by the State in your country? (for example, loss of earnings, medical and hospitalisation expenses, non-material compensation).</p>	<p>As mentioned above, in Portugal, material damages and non-material damages are contemplated, so that all the examples presented can be compensated.</p>
<p>5.a) How is compensation to victims of violent crimes decided and calculated?</p>	<p>Compensation to the victim of violent crimes is decided by the Commission for the Protection of Victims of Crimes, resorting to equity judgments, as</p>

	<p>follows from Article 4 of Law no 104/2009, of 14 September.</p> <p>In the formulation of this judgment it is always taking into account the damages suffered, whether material or moral, and may even be considered, in addition, other support, such as social, educational and therapeutic support.</p>
5.b) How are the provisions of Article 8 of the Convention reflected in your legislation and how are they applied?	<p>The conduct of the victim is always taken into account, and the compensation may be reduced or even excluded, according to Article 3 of Law 104/2009, of 14 September.</p>
5.c) Does your national law provide for the possibility to provide the applicant with advances on costs prior to the final decision on compensation? If yes, for which purpose and to what limits?	<p>YES.</p> <p>In the case of victims of violent crimes, that is, those identified in Article 1 (j) and (j) of the Code of Criminal Procedure, there may be an advance of compensation by the State or the payment when it can not be borne by the offender and provided that the injury has caused considerable disruption to the level and quality of life of the victim, pursuant to Article 2 (1) (a) and (b) of Law no 104/2009, of 14 of September.</p> <p>It should be noted that the foregoing right extends, in the case of death, to persons who, under the terms of Article 2009 (1) of the Civil Code, are granted a right to alimony and those that, under the Law no 7/2001, of May 11, live in union with the victim, according to paragraph 3 of the abovementioned Article.</p> <p>It should also be noted that the right to advance is maintained even if the identity of the perpetrator of the acts of violence is not known or, for another reason, he/she can not be accused or convicted.</p> <p>The amounts are defined in the same way as those already mentioned, that is, by means of equity judgments and within the limits defined by law, according to Article 4 of Law no 104/2009, of 14 September.</p>
5.d) Does your national law prescribe a period of time in which to apply for compensation?	<p>The claim for damages may be submitted up to one year from the date of the crime, or if a criminal proceeding was initiated, up to one year after the</p>

	final decision of this proceeding. The victim who at the date of the crime is a minor can submit the request up to one year after having reached the age of majority, according to Article 11 of Law no104/2009, of 14 September.
6. Do victims of terrorism have any specific status in your domestic law?	The Portuguese law does not contemplate a special regime for the victims of terrorism, since it is considered that there should be no differentiated regimes according to the crimes committed. However, it contemplates, as already mentioned, the compensation of victims of violent and especially violent crimes, where the crime of terrorism is included (Article 1 (1) (i) and (1) of the Code of Criminal Procedure).
<b>ACCESS TO JUSTICE</b>	
7. Which steps have been taken to ensure that information about the scheme is available to potential applicants?	The information about the scheme is promoted through information campaigns. When a victim files a complaint with an authority - for instance to the Public Prosecution, law enforcement authorities, immigration services or electronically -, he or she is provided with all information about their rights, in particular they are made aware of the mechanisms available to them, irrespective of the crime that was targeted.
8.a) Have measures been taken to assist victims in making an application for compensation?	In the case of victims of violent crime and domestic violence, they are informed of the possibility of granting the advance of the compensation by the State, and the request for compensation is provided as well as the information that it should be submitted to the Commission for the Protection of Victims of Crimes.
8.b) To which competent authorities should applications for compensation be submitted?	In Portugal the competent authority to receive the requests of persons residing in other countries and who were victims of crime in Portugal, or to forward requests of residents in Portugal who were victims of crimes in another countries is the Commission for the Protection of Crime Victims, as results from Article 19 of Law no 104/2009, of 14 September.
8.c) Are applicants obliged to bear any legal expenses related to applications for compensation?	NO. The whole procedure is completely free for applicants, and it is not necessary to contract a

	lawyer for this purpose.
8.d) Do perpetrators have the status of a party in compensation proceedings?	NO, in the compensation proceedings. However, the Portuguese State via the Commission for the Protection of Crime Victims, may file an action, in an autonomous proceeding, against the offender which acquires there also the status of defendant.
9. Can decisions on State compensation be appealed against by the applicant?	YES. The decisions on State compensation can be appealed to Administrative and Tax Courts.
10. Have studies been undertaken on the implementation of the domestic scheme for State compensation? If the answer is yes, what are the main results?	NO.
<b>THE CROSS-BORDER DIMENSION AND INTERNATIONAL CO-OPERATION</b>	
11. Are tourist victims or other individuals who are not permanent residents in your country but who are nationals of other Parties to the Convention and/or of Council of Europe member States, eligible for state compensation?	YES. Yes. All victims of violent crimes committed in Portuguese territory are eligible for State compensation, since Portuguese criminal law applies to crimes committed in Portugal, regardless of the nationality of the offender, according to Article 4 of the Code of Criminal Procedure.
12. Are residents of countries that are not members of the Council of Europe, eligible for State compensation in your country?	YES. Please see the answer to the previous question
13. How is information about State compensation made available to cross-border victims?	The information is available in the same way already mentioned in the answers provided to Questions 7 and 8. The information is also available in the English language in the website of the Commission for the Protection of Crime Victims : <a href="http://www.e-justice.europa.eu">www.e-justice.europa.eu</a>
14. What legal basis do you use to ensure international co-operation? *For the European Union Member States, other than Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, what legal basis do you use to ensure international cooperation?	International cooperation is ensured by the application of the Criminal Code, Code of Criminal Procedure and Law no 144/99, of 31 August, on international judicial cooperation in criminal matters.
15. Has the administration of State compensation come across problems in the management of cross-border applications? If yes, please specify.	NO, until now.
<b>VIEWS FROM ALL MEMBER STATES</b>	
20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an	NO. We favour the option identified in Question 21.



amending protocol? If so, please specify what such an update or amendment should cover.	
21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.	An option for a recommendation in this subject matter with the aim to complementing the Convention could be the best and faster solution. Guidelines could clarify some situation and allow for a interconnection with the provisions of EU Directive 2004/80/EC, of 29 April 2004 relating to compensation to crime victims.

## SERBIA (n'est pas partie à la Convention)

### QUESTIONS

QUESTIONS FOR STATES THAT ARE NOT PARTIES TO THE CONVENTION	
16. Is your government considering ratifying the Convention?	Yes
17. Has legislation been enacted on compensation from the State to victims of violent crimes? Is it available in English?	No
18. Are victims of crime in your country covered by State compensation irrespective of their nationality or residence, or are there restrictions as to the territorial scope of application?	Republic of Serbia has no law regulating the issue of state compensation for victims of violent crimes.
19. Is your government considering proposals in order to improve the status of victims of violent crimes? If yes, please specify.	After the ratification of the European Convention on the Compensation of Victims of Violent Crimes, the Republic of Serbia will harmonize its criminal legislation with the Convention.
VIEWS FROM ALL MEMBER STATES	
20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.	No
21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.	No

## SLOVAK REPUBLIC

ELIGIBILITY	
1. Does your national law on state compensation operate on the basis of the principle of subsidiarity? In other words; is compensation only paid when it is not fully available from other sources? Please explain how the principle is applied.	Yes, compensation is not provided if the victim of a violent crime has been compensated otherwise, primarily by the perpetrator of the offense. This condition of taking action by the victim to obtain compensation from the offender is required for receiving a full amount of compensation from the state authorities, otherwise the compensation may be reduced. On the other hand, if the victim of a violent crime receives compensation from the perpetrator after granting compensation by the state authorities, the victim is obliged to return that amount.
2.a) Which crimes are covered by the national law on state compensation in your country? 2.b) Are crimes, not classified as intentional crimes of violence, also covered by the law? Please specify.	The relevant Act regulates the onetime financial compensation of persons who have been injured as a result of intentional violent crimes or the compensation is granted to related persons of victims who have died as a result of a violent crime. Other offenses are not subject to compensation (in the scope are in particular offenses like murder, hurt, sexual abuse, rape).
3. Is your national law restricted to serious bodily injury or impairment of health, as stated in the Convention? If not, please specify.	The level of damage caused to health is not a condition for granting compensation regulated by the law, but the provisions of the special Act governing the compensation for pain and compensation for reduced succeeding in a society is of a relevance when calculating the amount of compensation.
4. Which elements of compensation are paid to victims by the State in your country? (for example,	Victims of violent crime are compensated only to the

loss of earnings, medical and hospitalisation expenses, non-material compensation).	extent of their health damage that means they are compensated for pain and for reduced succeeding in a society. The law provides for an exception that covers the compensation of related persons of victims who have died as a result of a violent crime, in the form of a onetime compensation amounting to 50 times the minimum wage. This is therefore considered as non-pecuniary damage compensation. For offenses of rape, sexual abuse and sexual violence, the law allows for compensation for moral damages amounting to 10 times the minimum wage.
5.a) How is compensation to victims of violent crimes decided and calculated?	See replies in Q. 3 and 4
5.b) How are the provisions of Article 8 of the Convention reflected in your legislation and how are they applied?	The provisions of Article 8 of the European Convention on the Compensation of Victims of Violent Offenses are reflected in the Act No. 215/2006 Coll. in the provisions of Section 3 para 2 letter c) according to which compensation is not granted if the applicant is a person who can not exercise the rights of the injured party under Section 47 para 1 of the Code of Criminal procedure (co-accused) and in Section 7 of Act no. 215/2006 Coll. according to which the compensation calculated in accordance with Sections 5 and 6 can be reasonably reduced if the injured party has caused (with other person) the health damage or has not taken measures to obtain compensation from the perpetrator of the offense which caused him / her harm. E.g. in case of co-offending is the compensation reduced by 50%.
5.c) Does your national law provide for the possibility to provide the applicant with advances on costs prior to the final decision on compensation? If yes, for which purpose and to what limits?	Act no. 215/2006 Coll. does not allow the advance to be provided before the final decision on compensation.
5.d) Does your national law prescribe a period of time in which to apply for compensation?	The victim of a violent crime must submit a claim for compensation to the Ministry of Justice of the Slovak Republic within 6 months from the time when the decision adopted in the criminal proceeding (by which the offender was found guilty for committing the offense causing to victim an injury) became final. If the offender is not known or

	the continuation of the criminal prosecution is hindered by another legal obstacle, the victim of a violent crime must file a claim for compensation at the Ministry of Justice of the Slovak Republic within 6 months from the date on which the last decision by the competent authority was adopted. In case the victim of a violent crime was transferred with his/her claim for compensation from criminal to a civil court proceedings, the victim of a violent crime must file a claim for compensation at the Ministry of Justice of the Slovak Republic within 6 months from the time when the decision in a civil proceedings became final.
6. Do victims of terrorism have any specific status in your domestic law?	The national law does not address the specific status of the victims of terrorism.
<b>ACCESS TO JUSTICE</b>	
7. Which steps have been taken to ensure that information about the scheme is available to potential applicants?	Victims of violent crimes are informed about the possibilities and legal conditions of compensation in the context of criminal proceedings by the law enforcement authorities - police. Each victim will also receive an information form regarding the conditions of compensation. The necessary information is also published on the website of the Ministry of Justice of the Slovak Republic.
8.a) Have measures been taken to assist victims in making an application for compensation?	See reply to Q 7
8.b) To which competent authorities should applications for compensation be submitted?	Applications must be submitted to the Ministry of Justice of the Slovak Republic.
8.c) Are applicants obliged to bear any legal expenses related to applications for compensation?	The claim for compensation is not charged.
8.d) Do perpetrators have the status of a party in compensation proceedings?	The perpetrators have no status in the compensation proceedings.
9. Can decisions on State compensation be appealed against by the applicant?	In the case when the competent authority like the Ministry of Justice of the Slovak Republic refused such a claim for compensation or accepted it only in a part, the victim of a violent crime may seek redress through the legal action against the State. The victim of a violent crime must file such an action within one year of receipt of the decision on compensation.
10. Have studies been undertaken on the implementation of the domestic scheme for State	N/a

compensation? If the answer is yes, what are the main results?	
<b>THE CROSS-BORDER DIMENSION AND INTERNATIONAL CO-OPERATION</b>	
<p>11. Are tourist victims or other individuals who are not permanent residents in your country but who are nationals of other Parties to the Convention and/or of Council of Europe member States, eligible for state compensation?</p> <p>12. Are residents of countries that are not members of the Council of Europe, eligible for State compensation in your country?</p> <p>13. How is information about State compensation made available to cross-border victims?</p> <p>14. What legal basis do you use to ensure international co-operation? *For the European Union Member States, other than Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, what legal basis do you use to ensure international cooperation?</p> <p>15. Has the administration of State compensation come across problems in the management of cross-border applications? If yes, please specify.</p>	<p>Compensation may be claimed by a victim who is a citizen of the Slovak Republic or a citizen of another Member State or a stateless person having a permanent residence in the territory of the Slovak Republic or in another Member State or a foreign national under the conditions and to the extent stipulated by an international treaty ratified and declared as prescribed by the law, if the harm to health occurred in the territory of the Slovak Republic.</p> <p>Information on compensation for victims of violent crime is available, for example on the website of the Ministry of Justice of the Slovak Republic even for so-called cross-border cases where the transposition of Council Directive 2004/80 / EC of 29.04.2004 has extended the number of persons entitled to compensation in the above-mentioned direction.</p> <p>The process of assessing compensation claims in cross-border cases has not yet encountered major problems.</p>
<b>VIEWS FROM ALL MEMBER STATES</b>	
<p>20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.</p> <p>21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.</p>	<p>The current text of the European Convention on the Compensation of Victims of Crime, following our experience, does not substantially require adoption of additional protocols.</p>

## SLOVENIA

<b>ELIGIBILITY</b>	
1. Does your national law on state compensation operate on the basis of the principle of subsidiarity? In other words; is compensation only paid when it is not fully available from other sources? Please explain how	<p>Yes, but with exceptions prescribed in Article 7 (Crime Victims Compensation Act).</p> <p>Assumption of default</p>

the principle is applied.	<p>Article 7</p> <p>It shall be assumed that the offender will not be able to pay compensation in the following events:</p> <ul style="list-style-type: none"> <li>– If the offender remains unknown for three months from the detection or reporting of the criminal act and is not identified prior to the decision by the Committee, or if it is not possible to prosecute the offender;</li> <li>– If the eligible person is a child, disabled person or victim of national violence;</li> <li>– In the event of a national cross-border case.</li> </ul>
2.a) Which crimes are covered by the national law on state compensation in your country?	<p>Crime Victims Compensation Act has definition in Article 2:</p> <p>" Violent intentional crime" means an act committed with a direct attack on life and body, with the use of force or violation of sexual integrity, and may be punished with one or more years of imprisonment, in accordance with the Criminal Code;</p>
2.b) Are crimes, not classified as intentional crimes of violence, also covered by the law? Please specify.	<p>No. All crimes covered by Crime Victims Compensation Act are classified as intentional crimes of violence.</p>
3. Is your national law restricted to serious bodily injury or impairment of health, as stated in the Convention? If not, please specify.	<p>No, our national law is not restricted to serious bodily injury or impairment of health.</p> <p>Compensation shall not be recognised for physical injuries for which the appearance is temporarily impaired or with which health is temporarily impaired to a lesser degree.</p> <p>Compensation for physical pain, determined considering the circumstances of the case, the level of pain caused by the injury or impairment of health, the duration of the pain, and in accordance with the principle of fair monetary compensation, shall be determined as:</p> <ul style="list-style-type: none"> <li>- Simple cases</li> <li>- Moderately cases</li> <li>- Serious cases</li> <li>- Very serious cases</li> </ul>

	- Extremely serious cases.
4. Which elements of compensation are paid to victims by the State in your country? (for example, loss of earnings, medical and hospitalisation expenses, non-material compensation).	<p>The access to compensation is recognized for:</p> <ul style="list-style-type: none"> <li>- Physical pains or impairment of health</li> <li>- Suffering</li> <li>- Loss of maintenance</li> <li>- Medical and hospitalization expenses</li> <li>- Funeral expenses</li> <li>- Damages for destroyed medical devices</li> <li>- Expenses for compensation claims.</li> </ul>
5.a) How is compensation to victims of violent crimes decided and calculated?	<p>The access to the compensation shall be subject to the decision of the Committee that includes the Chairman and four (4) members and their deputies. The Committee shall decide on the compensation claims at the meetings convened by the Chairman. Rates for calculation of compensation are prescribed in Articles 9 – 15</p>
5.b) How are the provisions of Article 8 of the Convention reflected in your legislation and how are they applied?	<p>The decision about the amount of the compensation shall also take into account the beneficiary's proceeding at the commitment of the crime and thereafter, as well as his/her contribution to the occurrence and to the extent of the damage.</p> <p>Given the circumstances invoked in the preceding paragraph, the damages shall be reduced or rejected accordingly through application mutatis mutandis of the provisions of the Code of Obligations.</p>
5.c) Does your national law provide for the possibility to provide the applicant with advances on costs prior to the final decision on compensation? If yes, for which purpose and to what limits?	No, there is no possibility for advances on costs.
5.d) Does your national law prescribe a period of time in which to apply for compensation?	<p>Yes, the application shall be submitted at the latest within six months from the day of commitment of the crime invoked in the application for compensation.</p> <p>If due to his/her bodily injuries the beneficiary is unable to submit his/her application by the deadline invoked in the preceding paragraph, he/she shall submit his/her application at the latest within three months from the day when the reasons for which he/she was unable to submit the application ceased to exist, yet at the latest within five years from the day the crime was committed.</p>

	<p>On the basis of Article 7(a), paragraph (2) of the Crime Victims Compensation Act, the application must be submitted within three months of receipt of the decision or notice that enforcement was not successful, or if enforcement was not proposed, no later than three months after the receipt of information on the basis of which it can be concluded that the enforcement is not possible.</p>
6. Do victims of terrorism have any specific status in your domestic law?	<p>No, victims of terrorism do not have any specific status.</p> <p>Access to justice</p>
7. Which steps have been taken to ensure that information about the scheme is available to potential applicants?	<p>The Police shall provide information on the possibilities and on the terms and conditions for enforcement of the rights hereunder to the persons intending to enforce them.</p> <p>The Ministry of Justice shall provide for cooperation and exchange of information between the Committee, the Police and the competent authorities of other countries, according to the regulations of the respective countries competent for performance of tasks in compensation claim proceedings, and shall give assistance and seek adequate solutions concerning the implementation of the provisions hereof in cross-border situations.</p> <p>The Ministry of Justice shall provide the applicants with the basic information on the possibilities and on the terms and conditions for claiming compensation in accordance with the manual drawn up by the European Commission.</p>
8.a) Have measures been taken to assist victims in making an application for compensation?	<p>The Ministry of Justice shall provide the applicants with the basic information on the possibilities and on the terms and conditions for claiming compensation in accordance with the manual drawn up by the European Commission.</p> <p>Special brochure with information for claiming compensation has been prepared and it is available on web site of Ministry of Justice, on Police Stations at information desks of the courts etc.</p>
8.b) To which competent authorities should applications for compensation be submitted?	<p>The applicant shall submit his or her application for compensation to the Ministry of Justice.</p> <p>The application shall be submitted in writing, on the</p>



	form prescribed by the Minister of Justice.
8.c) Are applicants obliged to bear any legal expenses related to applications for compensation?	There are no legal expenses related to application for compensation.
8.d) Do perpetrators have the status of a party in compensation proceedings?	No, perpetrators don't have the status of the party in compensation proceedings.
9. Can decisions on State compensation be appealed against by the applicant?	Yes, decision on State compensation can be appealed in administrative dispute.
10. Have studies been undertaken on the implementation of the domestic scheme for State compensation? If the answer is yes, what are the main results?	No. The cross-border dimension and international co-operation
11. Are tourist victims or other individuals who are not permanent residents in your country but who are nationals of other Parties to the Convention and/or of Council of Europe member States, eligible for state compensation?	Formal conditions for access to the compensation are fulfilled if the applicant is a: <ul style="list-style-type: none"> <li>– Citizen of the Republic of Slovenia or</li> <li>– Citizen of any other Member State of the European Union.</li> </ul>
12. Are residents of countries that are not members of the Council of Europe, eligible for State compensation in your country?	No, citizenship is a formal condition
13. How is information about State compensation made available to cross-border victims?	Information is available in E – Justice Portal.
14. What legal basis do you use to ensure international co-operation? *For the European Union Member States, other than Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, what legal basis do you use to ensure international cooperation?	We adopted Crime Victims Compensation Act on 11 Nov 2005. In accordance with the Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, this Act regulates the competent authorities and the proceedings applied to cross-border situations.
15. Has the administration of State compensation come across problems in the management of cross-border applications? If yes, please specify.	We only have one cross-border case and we didn't detect any problems yet.
<b>QUESTIONS FOR STATES THAT ARE NOT PARTIES TO THE CONVENTION</b>	
16. Is your government considering ratifying the Convention?	Our Crime Victims Compensation Act regulates the right to compensation to victims of violent intentional crime and their dependants, the respective claiming proceedings and the authorities that make decisions and participate in the decision-making proceedings on the respective rights. In accordance with the Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, this Act regulates the competent authorities and the proceedings applied to cross-border

	<p>situations.</p> <p>Our government is planning to improve the status of victims of violent crimes and therefore considering the added value of ratifying the Convention.</p>
17. Has legislation been enacted on compensation from the State to victims of violent crimes? Is it available in English?	<p>Yes, we adopted Crime Victims Compensation Act on 11 Nov 2005. It was amended on 2 Nov 2010.</p> <p>It is also available in English.</p>
18. Are victims of crime in your country covered by State compensation irrespective of their nationality or residence, or are there restrictions as to the territorial scope of application?	<p>Citizenship of the Republic of Slovenia or citizenship of any other Member State of the European Union is the formal condition for access to the State compensation.</p>
19. Is your government considering proposals in order to improve the status of victims of violent crimes? If yes, please specify.	<p>Yes, to improve the status of victims our government is considering to change the Crime Victims Compensation Act. Formal conditions (Citizenship of the Republic of Slovenia or citizenship of any other Member State of the European Union) are too narrow.</p>
<b>VIEWS FROM ALL MEMBER STATES</b>	
20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.	<p>Since Slovenia did not ratify the Convention yet we are not able to propose an additional or an amending protocol but as mentioned before formal conditions for access for the State Compensation shall be updated. Update is needed in the Convention as well.</p>
21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.	<p>Recommendation with guidelines is always useful and helpful.</p>

## SPAIN

<b>ELIGIBILITY</b>	
1. Does your national law on state compensation operate on the basis of the principle of subsidiarity? In other words; is compensation only paid when it is not fully available from other sources? Please explain how the principle is applied.	<p>The State will pay all or part of the compensation when the culprit of the crime has been declared partially insolvent.</p> <p>The State is subrogated full-fledged, until the whole amount corresponding to the provisional or final compensation granted as victim or beneficiary, in the rights that assist the victim against the civil responsible for the crime.</p> <p>The State may exercise a repeated action against the civilly obligor for the offence in order to demand full</p>

	<p>or partial repayment of the compensation granted. This action will take place, where necessary, through the administrative proceedings of payment order and it will be pertinent, among other cases:</p> <ul style="list-style-type: none"> <li>• When the absence of crime is declared through a final judicial decision.</li> <li>• When after the payment, both the victim and his/her beneficiaries obtain, under any concept, total or partial redress of the damage suffered within the three years following the granting of the compensation.</li> <li>• When the compensation has been obtained on the grounds of data which are false or deliberately incomplete, or through any other fraudulent way, as well as the deliberate omission of circumstances that establish the denial or reduction of the requested assistance.</li> <li>• When the compensation established in the judgment is lower than the provisional support. The exercise of this action shall be carried out by means of the State's appearance in Court for the followed criminal or civil procedure, without prejudice to the civil action exercised by the Public Prosecutor.</li> </ul>
2.a) Which crimes are covered by the national law on state compensation in your country?	<p>In Spain there is a system of support to victims of fraudulent (or intentional) and violent offences, committed in Spain, resulting in death, serious bodily injury or serious damage to physical or mental health. Compensation is also recognized for victims of crimes against sexual freedom, even when these are perpetrated without violence.</p> <p>In general, the economic support provided by law can be obtained if at the time of committing the crime, the victim is Spanish or national of another Member State of the European Union or, in case of not been included in the previous case, resides habitually in Spain or is a national of another State that recognizes similar support to the Spaniards within its territory.</p> <p>In case of death, the mentioned nationality or</p>

	<p>residence requirements must be met by the beneficiaries, not by the deceased person.</p> <p>In the case of victims of terrorism, there are different kinds of State assistance in order to compensate them for the damages caused by this type of crimes, being required a full connection between the terrorist act and the damage suffered.</p> <p>The following damages are compensable:</p> <ul style="list-style-type: none"> <li>• Physical and psychological body damages, as well as the expenses due to medical treatment, prostheses and surgical interventions.</li> <li>• These expenses shall be paid to the person affected only in the event that he/she does not have total or partial coverage by a public or private welfare system.</li> <li>• Material damages caused to the houses of individuals or those produced in commercial and industrial establishments, offices of political parties, trade unions and social organizations.</li> <li>• Costs of temporary accommodation while works of repair of the individual's usual dwelling are carried out.</li> <li>• Those caused in private vehicles, as well as the ones suffered by those for land transport of persons or goods, except those of public ownership.</li> </ul> <p>Compensation for the abovementioned damages, with the exception of the bodily ones, will be subsidiary to those established for the same cases by any other public body or the ones arising from insurance contracts. In these cases, those amounts resulting from the difference between the amount paid by the said Public Administrations or insurance institutions and the assessment officially established will be paid.</p> <p>The amount of the compensation shall be determined taking into account the damage suffered (nature of the injuries and of the disability they cause, death, etc.)</p> <p>Other kinds of compensation:</p> <ul style="list-style-type: none"> <li>• Study: when as a result of a terrorist attack there are for the student, his parents, tutors or guardians, personal injuries of special importance, or</li> </ul>
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	<p>these render him unfit for the practise of his habitual profession.</p> <ul style="list-style-type: none"> <li>• Immediate psychological and psycho-pedagogical assistance, both for victims and their relatives.</li> <li>• Extraordinary assistance to alleviate, with exceptional character, situations of personal or family needs of the victims, not covered or insufficiently covered by ordinary subsidies.</li> </ul>
2.b) Are crimes, not classified as intentional crimes of violence, also covered by the law? Please specify.	No, only compensation for the cases referred to in the preceding paragraph can be recognized.
3. Is your national law restricted to serious bodily injury or impairment of health, as stated in the Convention? If not, please specify.	No, the victims of fraudulent (or intentional) and violent offences committed in Spain, resulting in death or serious damage to mental health are also compensated.
4. Which elements of compensation are paid to victims by the State in your country? (for example, loss of earnings, medical and hospitalisation expenses, non-material compensation).	<p>There is compensation for serious injuries which undermine the physical integrity of the victims, or their physical or mental health and which cause a temporary or permanent impairment to the person having suffered them. Bodily injuries or damage to physical or mental health must be enough so that, under the Social Security legislation, a declaration of permanent invalidity would take place in any of their degrees or a situation of temporary disability lasting more than six months.</p> <p>In the case of a minor's death, funeral expenses actually paid by the parents or guardians are also covered.</p> <p>In addition, in the case of offences against sexual freedom that cause damages to the victim's mental health, the costs of therapeutic treatment freely chosen by the victim will be covered.</p>
5.a) How is compensation to victims of violent crimes decided and calculated?	<p>Under Spanish law, the amount of support cannot, in any case, go beyond the compensation set in the judgment. Such amount shall be determined by applying the following rules, insofar as it does not exceed the above amount:</p> <p>a) In case that there is a temporary disability, the amount to be received will be the equivalent to the double of the current daily official minimum wage, during the time in which the victim is in that</p>

	<p>situation after the first six months.</p> <p>b) In case of disabling injuries, the maximum amount to be received shall refer to the monthly official minimum wage, valid on the date when the injuries or damages to health are settled and it depends on the degree of impairment in accordance with the following scale:</p> <ul style="list-style-type: none"> <li>- Partial permanent disability: forty monthly salaries.</li> <li>- Total permanent disability: sixty monthly salaries.</li> <li>- Absolute permanent disability: ninety monthly salaries.</li> <li>- Severe disability: one hundred and thirty monthly salaries.</li> </ul> <p>c) In cases of death, the maximum support to be received will be of 120 monthly payments of the official minimum wage valid on the date in which the death occurs.</p> <p>2. The amount of compensation shall be established by applying weightings on the maximum amounts provided for in the preceding paragraph, in the form determined by law and considering the following:</p> <ul style="list-style-type: none"> <li>a) The economic situations of the victim and the beneficiary.</li> <li>b) The number of people who economically depend on the victim and on the beneficiary.</li> <li>c) The degree in which the victim is affected or impaired.</li> </ul> <p>3. In the event of the death of a victim under age as a result of the crime, support shall only consist of compensation for funeral expenses that the parents or guardians of the deceased child had actually paid.</p> <p>4. In cases of offences against sexual freedom that would cause damages to the victim's mental health, the amount of the compensation shall bear the costs of the therapeutic treatment freely chosen by him/her.</p> <p>We need to take into account that the Public Income Index (IPREM) used in Spain as a reference for the award of grants, scholarships, subsidies or unemployment allowances among others, was created in 2004 to replace the Official Minimum Wage as a reference for these grants.</p>
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	<p>The amounts of IPREM for the year 2016 are as follows (in the absence of the approval of the General State Budget for 2017):</p> <ul style="list-style-type: none"> <li>• Monthly IPREM: 532.51 euros.</li> <li>• Annual IPREM (12 payments): 6,390.13 euros.</li> <li>• Annual IPREM (14 payments): 7,455.14 euros.</li> </ul>
5.b) How are the provisions of Article 8 of the Convention reflected in your legislation and how are they applied?	<p>The Spanish legislation envisages the possibility of refusing public compensation or reducing its amount when its total or partial granting would be contrary to equity or public order, considering the following circumstances stated by a judgment:</p> <p>a) The behaviour of the beneficiary would have contributed, directly or indirectly, to the perpetration of the offence, or to the worsening of his/her damages.</p> <p>b) The relationship of the beneficiary to the perpetrator of the crime, or his belonging to an organization dedicated to violent criminal actions.</p> <p>If the deceased person was subject to any of the causes of refusal or limitation of the abovementioned support as a result of the crime, the beneficiaries will obtain it as indirect victims, if they were in economic distress.</p>
5.c) Does your national law provide for the possibility to provide the applicant with advances on costs prior to the final decision on compensation? If yes, for which purpose and to what limits?	<p>Spanish law lays down the possibility of granting provisional compensation prior to the final judicial decision that concludes the criminal proceedings, provided that the precarious economic situation of the victim or beneficiaries is proven. Compensation may be requested once the victim has reported the facts to the competent authorities or when there is an ex officio criminal proceeding for the facts.</p> <p>Provisional compensation cannot exceed 80 percent of the maximum amount of support legally established for cases of death, serious bodily injury or serious damage to health, as appropriate. The amount will be established by applying a set of weightings laid down by the Spanish legislation.</p>

<p>5.d) Does your national law prescribe a period of time in which to apply for compensation?</p>	<p>The action to apply for compensation prescribes after a period of one year, counted from the date when the offence occurred. The period of limitation shall be suspended from the beginning of the criminal procedure for such facts, running again once a final judgement is rendered, which ends the procedure provisionally or definitely and this has been personally notified to the victim.</p> <p>In cases that result in death as a direct consequence of bodily injuries or damage to health, a new period of time of the same duration will be opened in order to request the assistance or, where appropriate, the pertinent difference between the settled amount for such injuries or damages and the one that is due because of the death; the same will be applied when, as a direct result of the injuries or damages, a situation of greater severity occurred to which higher amount is due.</p>
<p>6. Do victims of terrorism have any specific status in your domestic law?</p>	<p>In the case of victims of terrorism, there are a number of State supports assigned to these victims in order to compensate them for the damage caused with this type of crime, demanding a full connection between the terrorist act and the damage suffered.</p> <p>The following damages are compensable:</p> <ul style="list-style-type: none"> <li>• Bodily injuries, both physical and psychological, as well as the expenses for medical treatment, prostheses and surgical interventions.</li> <li>• These expenses shall be paid to the person affected only in the event that they are not totally or partially covered by a public or private welfare system.</li> <li>• Material damages caused to the houses of individuals or those produced in commercial and industrial establishments, offices of political parties, trade unions and social organizations.</li> <li>• Costs of temporary accommodation while works of repair in the habitual residence of the individuals are carried out.</li> <li>• Those caused in private vehicles, as well as the suffered by the vehicles aimed at the transport of persons or goods, except for the public ones.</li> </ul>



	<p>The compensation for the damages mentioned, with the exception of bodily injuries, will be subsidiary to those established for the same cases by any other public body or the ones arising from insurance contracts. In these cases, those amounts resulting from the difference between the amount paid by such Public Administrations or insurance entities and the official assessment shall be paid.</p> <p>The amount of the compensation shall be determined by the damage (kind of injuries and of the disabilities they cause, death, etc.)</p> <p>Other kinds of compensation:</p> <ul style="list-style-type: none"> <li>• Study: when a terrorist act cause to the student, his parents, tutors or guardians, personal damages of special importance or disable them for the exercise of their habitual profession.</li> <li>• Immediate psychological and psycho-pedagogical assistance, both for the victims and their relatives.</li> <li>• Exceptionally, extraordinary support to alleviate situations of personal or family need of the victims not covered or insufficiently covered by the ordinary subsidies.</li> </ul> <p>As a general rule, the deadline to submit the requests for compensation for personal or material damages shall be one year, counting from the day on which the damage occurred.</p>
<b>ACCESS TO JUSTICE</b>	
<p>7. Which steps have been taken to ensure that information about the scheme is available to potential applicants?</p> <p>8.a) Have measures been taken to assist victims in making an application for compensation?</p>	<p>The adoption of the Royal Decree 1109/2015, of 11th December, whereby the Act 4/2015, of 27th April, on the Statute of victims of crimes is developed, and the Offices of Assistance to Crime Victims is regulated, was an improvement in the legal definition of the function of the Offices of Assistance to Crime Victims concerning the support to such victims.</p> <p>Thus, the Offices of Assistance to Crime Victims are formed as a public and free multidisciplinary service for the victim's needs, which is set up by the Ministry of Justice.</p>

	<p>The Offices of Assistance to Crime Victims offer a comprehensive, coordinated and specialized assistance to the crime victim, and it responds to the specific needs of victims in the legal, psychological and social field.</p> <p>In particular, the victims will receive advice on economic rights related to the procedure, in particular on support and compensation to which they may be entitled for the damages and harm caused by the crime and, where appropriate, which procedure they should apply to claim them.</p> <p>In the case of victims of terrorism, the Office of Information and Assistance to Victims of Terrorism of the National High Court ("Audiencia Nacional"), will inform the victims on the main compensation to which, as victims of terrorism, they may be entitled, referring, in any case, their application and processing to the General Directorate of Support to the Victims of Terrorism, in the Ministry of the Interior.</p> <p>In addition, it should be taken into account that the Offices of Assistance to Crime Victims are the authority of assistance to crime victims in cross-border situations, in cases in which the crime suffered by the victim had been committed in a Member State of the European Union other than Spain, and the victim had his habitual residence in Spain. In cases of crimes of terrorism in cross-border situations, the Ministry of the Interior is the support authority, through the General Directorate of Support to Victims of Terrorism.</p> <p>As a general rule, except for terrorist offences, the support authority will cooperate in the opening and processing of the procedure for the recognition of the compensation by the Member State of the European Union in which the crime was committed and so that the requesting victim could have access, from Spain, to compensation by the State in whose territory the crime was committed.</p> <p>For that purpose, the Offices of Assistance to Crime Victims will provide the following to the applicant:</p> <ul style="list-style-type: none"> <li>• Information about the possibilities of</li> </ul>
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	<p>requesting economic support or compensation, about the necessary steps or forms, including the way in which they have to fill them in, and about the required supporting documents.</p> <ul style="list-style-type: none"> <li>• General guidance on how to fill in the requests for additional information.</li> </ul> <p>Also, the Offices of Assistance to Crime Victims, as authority for assistance, shall:</p> <ul style="list-style-type: none"> <li>• Send the application and supporting documentation, as well as the documents that, where appropriate, may be required subsequently, to the decision-making authority designated by the State in whose territory the crime was committed.</li> <li>• Cooperate with the decision-making authority when, in accordance with its national legislation, this authority accepts to hear the applicant or any other person.</li> </ul> <p>The decision-making authority is the General Directorate of Personnel and State Pension Costs of the Ministry of Economy and Finance when the application for state compensation laid down by law is issued through the assistance authority of the State where the applicant habitually resides.</p> <p>The decision-making authority shall inform both the applicant for compensation and the authority of assistance about:</p> <ul style="list-style-type: none"> <li>• The receipt of the request for state compensation, the body that directs the procedure, the time limit for its resolution and, if possible, the expected date on which the resolution will be taken.</li> <li>• The decision that closes the procedure.</li> </ul> <p>For crimes of terrorism, the Ministry of the Interior (General Directorate of Support to Victims of Terrorism) will act as the authority of assistance in cases when the place where the offence is committed is a Member State of the European Union other than Spain, and the requesting person resides habitually in Spain, so that he can have access, from Spain, to the pertinent redress, where appropriate, by the State in whose territory the crime was committed. The actions carried out by the General Directorate of Support to Victims, as authority of assistance or</p>
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	decision-making, are equivalent to those that fall to the General Directorate of State Personnel and Pension Costs of the Ministry of Finance and Public Service.
8.b) To which competent authorities should applications for compensation be submitted?	As a general rule, the requests for economic compensation referred to in the Spanish legislation shall be addressed to the General Directorate of State Personnel and Pension Costs of the Ministry of Finance and Public Service, except for crimes of terrorism in which the competent authority will be the General Directorate of Support to Victims of Terrorism, of the Ministry of the Interior.
8.c) Are applicants obliged to bear any legal expenses related to applications for compensation?	Generally, not; although in certain cases as in the case of crimes in cross-border situations, if the victims claim compensation in Spain, sometimes they must translate the reports or documents, which imply an economic cost.
8.d) Do perpetrators have the status of a party in compensation proceedings?	<p>The crime victim can claim compensation for damages as private prosecution, through civil action within the same criminal procedure, or postpone this claim until the criminal proceedings has finished. If both actions are separate, civil action must wait until the criminal procedure is finished.</p> <p>Furthermore, the crime victim can only appear in the proceedings as a civil actor without any ability in the procedure. In the case that the victim does not appear in the procedure as civil actor to claim compensation, the Public Prosecutor shall claim civil action on his/her behalf. If the Court declares the defendant innocent or does not establish compensation, the crime victim can always resort to the civil way in order to claim compensation.</p> <p>However, if the compensation is claimed to the State, the procedure will always start at the request of the person concerned (the victim) before the competent authority.</p> <p>For the recognition of the final compensation, it will be indispensable that the dossier contain the existence of a violent intentional crime or a crime against sexual freedom, which is proven through the final judgment that closes the criminal procedure.</p>

<p>9. Can decisions on State compensation be appealed against by the applicant?</p>	<p>Yes, since the resolutions issued by the Ministry of Finance and Public Service (General Directorate of State Personnel and Pension Costs) in the proceedings recognizing the support granted by the State in the case of violent crimes and against sexual freedom, can be challenged by interested parties within the period of one month from the reception of the notification before the National Commission of Support and Assistance to Victims of Violent Crimes and against Sexual Freedom.</p> <p>In the case of the victims of terrorism, the resolutions refusing the support of the Ministry of the Interior will be contested either through an optional appeal for reconsideration before the authority that issued the resolution (Ministry of the Interior) or contentious-administrative appeal before the Contentious-Administrative Division of the National High Court.</p>
<p>10. Have studies been undertaken on the implementation of the domestic scheme for State compensation? If the answer is yes, what are the main results?</p>	<p>No</p>
<p><b>THE CROSS-BORDER DIMENSION AND INTERNATIONAL CO-OPERATION</b></p>	
<p>11. Are tourist victims or other individuals who are not permanent residents in your country but who are nationals of other Parties to the Convention and/or of Council of Europe member States, eligible for state compensation?</p>	<p>In Spain there is a system of compensation to the victims of fraudulent (or intentional) and violent offences committed in Spain, with the result of death, serious bodily injuries or serious damages to the physical or mental health. Subsidies are also recognized for the benefit of victims of crimes against sexual freedom, even when these are carried out without violence.</p> <p>In general, there is an access to economic compensation legally provided for if, at the time of committing the crime, the victim is Spanish or national of another Member State of the European Union or, not being included in the previous case, he resides habitually in Spain or is a national of another State that recognizes similar compensation to Spaniards in its territory.</p> <p>In case of death, the mentioned requirements of nationality or residence must be met by the beneficiaries, not by the deceased person.</p>

12. Are residents of countries that are not members of the Council of Europe, eligible for State compensation in your country?	Yes, provided that the victim is a national of another State that recognizes similar compensation to the Spaniards in its territory.
13. How is information about State compensation made available to cross-border victims?	<p>The Offices of Support to Crime Victims are the Authority of assistance for the crime victims in cross-border situations, in cases in which the offence has been committed in a Member State of the European Union other than Spain and the victim has his habitual residence in Spain. In cases of crimes of terrorism in cross-border situations, the Ministry of the Interior is the Authority of assistance, through the General Directorate of Support to the Victims of Terrorism.</p> <p>As a general rule, except for terrorist crimes, the authority of assistance will cooperate in the opening and processing of the proceedings for the recognition of compensation by the Member State of the European Union in which the crime was committed and for which the requesting victim can access, from Spain, to compensation by the State in whose territory the crime was committed.</p> <p>To this end, the Offices of Assistance to Crime Victims will provide the applicant with:</p> <ul style="list-style-type: none"> <li>• Information about the possibilities of applying for economic support or compensation, the necessary formalities or forms, including the way to fill them in, and the supporting documentation that could be required.</li> <li>• General guidance on how to fill in the requests for additional information.</li> </ul> <p>In addition, the Offices of Assistance to Crime Victims, as authority of assistance shall:</p> <ul style="list-style-type: none"> <li>• Forward the application and supporting documentation, as well as the documents that, where appropriate, may be required subsequently to the decision-making authority, designated by the State in whose territory the crime was committed.</li> <li>• Cooperate with the decision-making authority when, in accordance with its domestic legislation, this authority decides to hear the</li> </ul>

	<p>applicant or any other person.</p> <p>The decision-making authority is the General Direction of State Personnel and Pension Costs of the Ministry of Finance and Public Service when the application for State support laid down in the law is issued through the authority of assistance of the State where the applicant usually resides.</p> <p>The decision-making authority should inform both the support requesting victim and the authority of assistance about:</p> <ul style="list-style-type: none"> <li>• The receipt of the request for public support, the body that directs the procedure, the time limit for its resolution and, if possible, the expected date on which the resolution will be adopted.</li> <li>• The resolution that puts an end to the procedure.</li> </ul> <p>For crimes of terrorism, the Ministry of the Interior (in particular, the General Directorate of Support to Victims of Terrorism) will act as the authority of assistance in cases in which the place where the offence is committed is a Member State of the European Union other than Spain and the support requesting victim has his habitual residence in Spain, so that he can have access, from Spain, to the pertinent compensation, where appropriate, by the State in whose territory the crime was committed. The actions to be carried out by the General Directorate of Support to Victims as authority of assistance or decision-making are equivalent to those falling to the General directorate of State Personnel and Pension Costs of the Ministry of Finance and Public Service.</p>
<p>14. What legal basis do you use to ensure international co-operation? *For the European Union Member States, other than Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, what legal basis do you use to ensure international cooperation?</p>	<p>The cooperation in the field of compensation to crime victims in cross-border situations is carried out within the framework of the Directive 2004/80/EC of 29th April 2004 on compensation to crime victims.</p>

<p>15. Has the administration of State compensation come across problems in the management of cross-border applications? If yes, please specify.</p>	<p>Yes, mainly with regard to the language in which the documentation from other countries is sent, since they have to be translated into Spanish, which means an additional burden for the victims.</p> <p>In addition, deadlines established by Spanish law to carry out different procedures are brief in the case of requests for compensation in cross-border situations and often there is not enough time to send, within the term established, the translated reports that are required throughout the procedure.</p> <p>There are also difficulties because the medical documentation (reports/tests) from some countries is not admitted, which implies that the appropriate support may not be recognized for that reason.</p>
<p><b>VIEWS FROM ALL MEMBER STATES</b></p>	
<p>20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.</p> <p>21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.</p>	<p>-</p>

## SWEDEN

<p><b>ELIGIBILITY</b></p>	
<p>1. Does your national law on state compensation operate on the basis of the principle of subsidiarity? In other words; is compensation only paid when it is not fully available from other sources? Please explain how the principle is applied.</p>	<p>Yes, compensation is considered when there is no possibility for the victim to receive other forms of compensation. Other forms of compensation are usually damages paid by the perpetrator or insurance compensation.</p>
<p>2.a) Which crimes are covered by the national law on state compensation in your country?</p>	<p>Compensation for personal injury can theoretically be granted for all types of crimes in which the injury</p>



	<p>is a specific consequence of the crime. Compensation is granted for such physical or psychological injuries that are supported by medical evidence.</p> <p>Compensation for damage to property or pecuniary losses caused by (for instance) theft, fraud or embezzlement is only paid in exceptional circumstances. This may be the case when the injury has been caused by somebody who has absconded from involuntary state-confinement or when the need for compensation can be considered particularly urgent.</p> <p>Compensation for violations of personal integrity (non-pecuniary damage) is granted when the crime has resulted in a serious violation of the victim through an attack on his or her person, freedom or peace.</p>
2.b) Are crimes, not classified as intentional crimes of violence, also covered by the law? Please specify.	Yes, see above.
3. Is your national law restricted to serious bodily injury or impairment of health, as stated in the Convention? If not, please specify.	No, such limitations do not exist. Compensation can be paid for all types of personal injury that are medically proven. However, as regards compensation for violations of personal integrity there is a requirement is that the violation is severe, which is often the case as regards unlawful threats, assault or serious or repeated cases of harassment.
4. Which elements of compensation are paid to victims by the State in your country? (for example, loss of earnings, medical and hospitalisation expenses, non-material compensation).	<p>Compensation can be paid for personal injury, including compensation for pain and suffering, certain costs, loss of earnings and permanent damage in the form of disfigurement or permanent injury.</p> <p>Compensation can also be paid for severe violations of the personal integrity of the victim (non-pecuniary damage) caused by a crime against his or her person, freedom or peace.</p> <p>Compensation can be paid, in exceptional circumstances, for damage to property and pecuniary losses.</p>
5.a) How is compensation to victims of violent crimes decided and calculated?	Compensation is paid according to the regulations in the Tort Liability Act and tort principles aiming at restoring the victims economic situation to what is was before the crime took place. As regards personal injury, compensation is determined using generally accepted tables concerning compensation for pain

	<p>and suffering as well as disfigurement and other permanent injury. Further, verified costs and income losses are compensated.</p> <p>Compensation for violations of personal integrity (non-pecuniary damage) is paid according to the practice developed by the courts and The Swedish Crime Victim Compensation and Support Authority. Compensation for property damage and pure financial damage are based on an assessment of fairness.</p>
5.b) How are the provisions of Article 8 of the Convention reflected in your legislation and how are they applied?	<p>Swedish legislation makes it possible to reduce or refuse compensation if the victim or – if the injury led to death – the deceased, through his or her behaviour or otherwise, with intent or through negligence increased the risk of injury. This usually occurs when the victim has provoked the crime, when the victim's own criminal behaviour has led to the crime or there is a connection with drug handling. With regards to provocation, compensation can either be halved or reduced in its entirety depending on the balance between the provocation and the severity of the crime.</p>
5.c) Does your national law provide for the possibility to provide the applicant with advances on costs prior to the final decision on compensation? If yes, for which purpose and to what limits?	<p>No, it is not possible to provide advances prior to the final decision on compensation. In certain cases it may be appropriate to settle some parts of the claim prior to others, such as compensation for violations of personal integrity. Claims that require more in depth examination or investigation, usually compensation for personal injury, can be regulated at a later stage.</p>
5.d) Does your national law prescribe a period of time in which to apply for compensation?	<p>Yes, an application can be made up to three years after a legal process is completed. There is however an exception for children being the victims of crime. They can submit an application for compensation up to the age of 21 years.</p>
6. Do victims of terrorism have any specific status in your domestic law?	No
<b>ACCESS TO JUSTICE</b>	
7. Which steps have been taken to ensure that information about the scheme is available to potential applicants?	<p>The police are obligated to inform a victim at the earliest possible opportunity of the possibility of being granted crime victim compensation. The Swedish Crime Victim Compensation and Support</p>

	<p>Authority must be active in making the possibility of applying for compensation known to those whom it concerns, as well as providing information, guidance and advice. This is done through The Swedish Crime Victim Compensation and Support Authority's website, leaflets, special promotions as well as cooperation with authorities and other bodies active in matters concerning crime victims.</p> <p>The websites for the police, the Swedish Prosecution Authority and the courts have links to The Swedish Crime Victim Compensation and Support Authority's website. Leaflets are generally available at police stations and courts. Information about compensation is also given by the Enforcement Authority. After receiving a sentence in a criminal case containing damages, the Enforcement Authority contacts the victim and asks if he or she wishes the Enforcement Authority's assistance in recovering compensation for damages. If, after investigation and possible enforcement, no payment has been received, the Enforcement Authority informs about the possibility of seeking state compensation. Further, insurance companies often inform their customers about compensation, if an injury was the result of a crime. The Swedish Crime Victim Compensation and Support Authority have a phone service aimed at providing information on the possibility of being granted damages and state compensation.</p>
<p>8.a) Have measures been taken to assist victims in making an application for compensation?</p>	<p>Yes, Victim Support centres can provide help with applications. Sometimes help is provided by Women's Shelters or the acting counsel for the complainant, even if it is not included as part of their respective duties. Pursuant to a regulation issued by the National Board of Health and Welfare the municipal social service should provide assistance to victims in contacting relevant authorities, for example the Swedish Crime Victim Compensation and Support Authority. There is also information on The Swedish Crime Victim Compensation and Support Authority's website and a phone service is</p>

	available for assistance. Application forms can be downloaded from the website and applications can also be sub-mitted electronically. The application form for compensation is relatively easy to complete.
8.b) To which competent authorities should applications for compensation be submitted?	To the Swedish Crime Victim Compensation and Support Authority.
8.c) Are applicants obliged to bear any legal expenses related to applications for compensation?	It is free of charge to apply for compensation. The Swedish Crime Victim Compensation and Support Authority have an obligation to investigate claims submitted to it, which means that the Authority gathers the necessary information in order to settle the matter. The process is free of charge for the applicant. This means that the applicant very rarely needs legal representation. If the applicant nevertheless has hired representation he or she may be reimbursed for such costs, if special reasons are at hand.
8.d) Do perpetrators have the status of a party in compensation proceedings?	No, not in matters concerning crime victim compensation from the state. The perpetrator is party in the succeeding process, when The Swedish Crime Victim Compensation and Support Authority reclaims the compensation from the perpetrator. However, this is only the case if the perpetrator is identified and his or her guilt has been established.
9. Can decisions on State compensation be appealed against by the applicant?	Decisions concerning compensation cannot be appealed. However, the Swedish Crime Victim Compensation and Support Authority can reconsider a decision. As a last resort the applicant can request reconsideration by the Board of Crime Victim Compensation.
10. Have studies been undertaken on the implementation of the domestic scheme for State compensation? If the answer is yes, what are the main results?	Yes, the function of the domestic scheme for State compensation has been studied by scholars and public institutions. The results can be summarized as follows: 1.Compensation for violation and personal integrity is on a level with, or somewhat below the amounts expected by the public. 2.The majority of crime victims are capable of making their application unaided. 3.The majority of crime victims receiving compensation view the compensation as a sign that

	<p>society takes the violation seriously.</p> <p>4.About half of the crime victims consider to have gained some form of reparation through the compensation.</p> <p>5.A large majority of crime victims consider the compensation to be meaningful.</p> <p>6.Most of the crime victims were satisfied with the compensation – the amount was not the most important factor.</p> <p>7.Improvements and simplifications of the process to receive compensation are possible, especially as regards damages awarded by the court.</p> <p>8.It is possible to improve the information provided to crime victims regarding compensation.</p>
The cross-border dimension and international co-operation	
11. Are tourist victims or other individuals who are not permanent residents in your country but who are nationals of other Parties to the Convention and/or of Council of Europe member States, eligible for state compensation?	<p>Yes, a person has the right to compensation if the crime occurred in Sweden. Compensation may be refused if the crime and the victim have such a tenuous connection to Sweden that it would be unreasonable for the state to pay compensation. However, compensation is rarely refused on this ground. Further, compensation cannot be refused on this ground, if the victim was a citizen or resident of another EU-state.</p>
12. Are residents of countries that are not members of the Council of Europe, eligible for State compensation in your country?	Yes, see above.
13. How is information about State compensation made available to cross-border victims?	<p>The police must provide information about the right to compensation when a crime is reported. This is also the case as regards foreign citizens who, when reporting a crime, when needed and if requested, have the right to an interpreter. Written information in several different languages is available to the police and others and can be ordered from The Swedish Crime Victim Compensation and Support Authority, and be given to the victim. Information in several different languages is available on The Swedish Crime Victim Compensation and Support Authority's website. The police, prosecutors and courts can refer victims to this website.</p>

14. What legal basis do you use to ensure international co-operation? *For the European Union Member States, other than Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, what legal basis do you use to ensure international cooperation?	The Swedish Crime Victim Compensation and Support Authority is the central contact point as both the assisting and deciding authority in accordance with the directive. In addition to the means provided by the directive, whenever possible, contact is made with the relevant foreign authority when necessary in determining if compensation is to be paid in another member state or if the matter should be determined under Swedish national law. However, cross-border applications that falls outside the scope of the directive are very uncommon.
15. Has the administration of State compensation come across problems in the management of cross-border applications? If yes, please specify.	Cross-border applications that falls outside the scope of the directive and that needs to be handled pursuant to the convention are very uncommon.
<b>VIEWS FROM ALL MEMBER STATES</b>	
20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.	Cross-border applications that falls outside the scope of the directive and that needs to be handled pursuant to the convention are very uncommon. Hence, we do not request any update of the convention.
21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.	

## SWITZERLAND

<b>RECEVABILITÉ</b>	
1. Votre droit national consacré à l'indemnisation par l'Etat opère-t-il sur le fondement du principe de subsidiarité ? En d'autres termes, l'indemnisation est-elle uniquement payée lorsque celle-ci ne peut être pleinement assurée par d'autres sources ? Merci d'expliquer la manière dont le principe est appliqué.	Oui. Le requérant/la requérante doit rendre vraisemblable que d'autres débiteurs (par exemple l'auteur de l'infraction, assurances) ne verseront aucune prestation ou alors des prestations insuffisantes. Celui qui sollicite une contribution aux frais pour l'aide à plus long terme fournie par un tiers, une indemnité ou une réparation morale doit rendre vraisemblable que les conditions du principe de subsidiarité sont remplies, à moins que, compte tenu des circonstances, on ne puisse pas attendre de lui qu'il effectue des démarches en vue d'obtenir des prestations de tiers.

	<p>Si des prestations à titre d'aide aux victimes ont été accordées par le canton, celui-ci est subrogé, jusqu'à concurrence des prestations versées, dans les prétentions de même nature que l'ayant droit peut faire valoir en raison de l'infraction. Les prétentions dans lesquelles le canton est subrogé priment celles que l'ayant droit peut encore faire valoir ainsi que les droits de recours de tiers. L'Etat renonce à faire valoir ses prétentions à l'égard de l'auteur de l'infraction lorsque cela compromettrait les intérêts dignes de protection de la victime ou de ses proches ou la réinsertion sociale de l'auteur de l'infraction.</p>
<p>2. a) Dans votre pays, quelles sont les infractions couvertes par le droit national consacré à l'indemnisation par l'Etat ?</p>	<p>La loi couvre les infractions pénales qui résultent d'une atteinte directe à l'intégrité physique, psychique ou sexuelle de la victime. Les agressions suivantes (liste non exhaustive) sont considérées comme des infractions pénales au sens de la loi: homicide, lésions corporelles d'une certaine importance, brigandage, menaces d'une certaine gravité, contrainte (y compris mariage ou partenariat forcé), traite d'êtres humains, séquestration, enlèvement et prise d'otage, actes d'ordre sexuel ou contraintes sexuelles, viol, etc. La seule tentative peut également être prise en considération pour autant qu'il y ait une atteinte directe à l'intégrité. Cf. art 1 LAVI</p>
<p>2. b) Les infractions qui ne sont pas qualifiées comme étant des infractions intentionnelles de violence, sont-elles également couvertes par le droit ?</p>	<p>Oui. Le droit à l'aide aux victimes (y compris l'indemnisation) existe, que l'auteur ait agi intentionnellement ou par négligence. Cf. art. 1 LAVI</p>
<p>3. Votre droit national est-il limité aux graves atteintes au corps ou à la santé comme énoncé dans la Convention? Si tel n'est pas le cas, merci de préciser.</p>	<p>Non. Le droit national suisse n'est pas limité aux infractions violentes, intentionnelles et ayant entraîné de graves atteintes corporelles ou la mort comme prévu dans la Convention. Néanmoins, il faut généralement une certaine gravité de l'atteinte directe à l'intégrité. La qualité de victime n'a ainsi pas été admise par la jurisprudence dans des cas où la victime présentait des lésions qui n'étaient pas particulièrement douloureuse ou gênantes</p>

	(hématomes, éraflures, griffures, etc.).
4. Dans votre pays, quels éléments d'indemnisation sont payés aux victimes par l'Etat (par exemple, la perte de gains, des frais médicaux et d'hospitalisation, une indemnisation non matérielle) ?	<p>Le droit suisse fait une différence entre diverses formes d'"indemnités" : Selon les circonstances, l'aide aux victimes peut comprendre</p> <ul style="list-style-type: none"> <li>- l'aide immédiate financière (p.ex. pour remplacement de lunettes ou d'une prothèse, réparation d'une porte fracturée, nettoyage de l'appartement), art. 13 et 14 LAVI,</li> <li>- la contribution aux frais pour l'aide à plus long terme fournie par un tiers (p. ex. les frais pour un avocat, cf. art. 5 OAVI, frais pour une psychothérapie), art. 16 LAVI,</li> <li>- l'indemnisation pour le dommage subi, art. 19 ss. LAVI, (voir la concrétisation ci-après)</li> <li>- la réparation morale, art. 22 ss. LAVI (pour les cas d'atteinte à l'intégrité d'une certaine gravité)</li> <li>- et l'exemption des frais de procédure, art. 30 LAVI.</li> </ul> <p>La victime et ses proches ont droit à une indemnité pour le dommage qu'ils ont subi du fait de l'atteinte ou de la mort de la victime. Sont pris en compte:</p> <ul style="list-style-type: none"> <li>- les frais d'inhumation,</li> <li>- la perte de gain,</li> <li>- la perte de soutien.</li> </ul> <p>Les frais médicaux sont couverts par l'assurance accident et subsidiairement par l'aide à plus long terme. Le préjudice lié à l'incapacité d'exercer une activité ménagère ou de prodiguer des soins aux proches n'est pris en compte que s'il se traduit par des frais supplémentaires ou par une diminution de l'activité lucrative.</p>
5. a) De quelle manière l'indemnisation des victimes d'infractions violentes est-elle décidée et calculée ?	<p>L'aide immédiate (en cas d'urgence) est versée à chaque victime ou personne proche qui en a besoin (subsidiarité).</p> <p>Au contraire, seuls on droit à une contribution aux frais pour l'aide à plus long terme fournie par un tiers ou à une indemnité les victimes et les proches dont les revenus déterminants ne dépassent pas une certaine limite prévue par la loi (cf. art 6 LAVI).</p> <p>L'indemnité est limitée à CHF 120'000 (art. 20 LAVI), ce qui n'en pas le cas de l'aide à plus long</p>



	<p>terme. L'indemnisation est intégrale ou dégressive selon la situation financière du requérant (art. 20 LAVI). Pour l'aide à plus long terme il existe une règle un peu plus généreuse (art. 16 LAVI). L'ordonnance contient une formule pour le calcul de ces deux dernières prestations (cf. art. 6 OAVI). La victime et ses proches ont droit à une réparation morale lorsque la gravité de l'atteinte le justifie. Le montant de la réparation morale est fixé en fonction de la gravité de l'atteinte. Il ne peut excéder: CHF 70 000, lorsque l'ayant droit est la victime; CHF 35 000, lorsque l'ayant droit est un proche. Les prestations que l'ayant droit a reçues de tiers (p. ex. par l'assurance- accident) à titre de réparation morale sont déduites.</p>
5. b) Comment les dispositions de l'article 8 de la Convention ont-elles été transcrites dans votre législation et comment sont-elles appliquées ?	<p>L'indemnité et la réparation morale en faveur de la victime peuvent être réduites ou exclues si celle-ci a contribué à causer l'atteinte ou à l'aggraver. Cela vaut de manière analogue pour les proches (art. 27 LAVI). En outre, la réparation morale peut être réduite lorsque l'ayant droit a son domicile à l'étranger et que, en raison du coût de la vie à son domicile, la réparation morale serait disproportionnée (art. 27 LAVI).</p>
5. c) Votre droit national prévoit-il la possibilité de fournir au requérant des avances sur les frais avant la décision finale sur l'indemnisation ? Si tel est le cas, à quelles fins et dans quelles limites ?	<p>Oui, cf. art. 21 LAVI. Une provision est possible concernant l'indemnité (mais pas concernant la réparation morale). L'autorité cantonale compétente accorde une provision aux conditions suivantes:</p> <ul style="list-style-type: none"> <li>a. l'ayant droit a besoin d'urgence d'une aide pécuniaire;</li> <li>b. il n'est pas possible de déterminer rapidement les conséquences de l'infraction avec certitude.</li> </ul>
5. d) Votre droit national prévoit-il un certain délai pour présenter une demande d'indemnisation ?	<p>Oui. La victime et ses proches doivent introduire leurs demandes d'indemnisation et de réparation morale dans un délai de cinq ans à compter de la date de l'infraction ou du moment où ils ont eu connaissance de l'infraction; à défaut, leurs prétentions sont périmées.</p> <p>Il y a des exceptions prévues par la loi pour des délits spécifiques contre des mineurs; dans ces cas la</p>

	victime peut introduire sa demande jusqu'au jour de ses 25 ans. Si la victime ou ses proches ont fait valoir des prétentions civiles dans une procédure pénale avant l'échéance du délai prévu par la loi, ils peuvent introduire leur demande d'indemnisation ou de réparation morale dans le délai d'un an à compter du moment où la décision relative aux conclusions civiles ou le classement sont définitifs (art. 25 LAVI).
6. Les victimes du terrorisme ont-elles un statut spécifique dans votre droit interne ?	non
<b>ACCES A LA JUSTICE</b>	
7. Quelles mesures ont été prises pour veiller à ce que les informations concernant le dispositif soient accessibles aux éventuels demandeurs ?	<p>Tous les centres d'aides aux victimes disposent d'un site internet. Il existe une <a href="#">liste</a> des centres. Si la police intervient, elle est obligée d'informer la victime. L'art. 305 du Code de procédure pénale suisse a la teneur suivante:</p> <p>1 Lors de la première audition, la police ou le ministère public informent de manière détaillée la victime sur ses droits et devoirs dans le cadre de la procédure pénale.</p> <p>2 La police ou le ministère public fournissent par la même occasion à la victime des informations sur:</p> <ul style="list-style-type: none"> <li>a. les adresses et les tâches des centres de consultation;</li> <li>b. la possibilité de solliciter diverses prestations relevant de l'aide aux victimes;</li> <li>c. le délai pour introduire une demande d'indemnisation et de réparation morale;</li> <li>d. le droit prévu à l'art. 92a CP de demander à être informée sur les décisions et les faits se rapportant à l'exécution d'une peine ou d'une mesure par la personne condamnée.</li> </ul> <p>3 La police ou le ministère public communiquent les nom et adresse de la victime à un centre de consultation pour autant que celle-ci y consente.</p> <p>4 Les al. 1 à 3 s'appliquent par analogie aux proches de la victime.</p>
8. a) Des mesures ont-elles été prises pour aider les victimes à présenter une demande d'indemnisation ?	Les centres d'aides aux victimes aident les victimes à présenter une demande d'indemnisation et prennent en charge, à certaines conditions, leurs frais d'avocat.
8. b) Quelles sont les autorités compétentes pour la présentation d'une demande d'indemnisation ?	<p>Le canton sur le territoire duquel l'infraction a été commise est compétent.</p> <p>Si l'auteur a agi ou si le résultat s'est produit en différents lieux, l'autorité compétente est celle: a) du</p>

	canton dans lequel la première enquête pénale a été ouverte; b) du canton de domicile de l'ayant droit, si aucune enquête pénale n'a été ouverte; c) du canton dans lequel la première demande d'indemnisation ou de réparation morale a été introduite, si aucune enquête pénale n'a été ouverte et que l'ayant droit n'a pas de domicile en Suisse (cf. art. 26 LAVI). Les cantons peuvent décider quelle autorité est compétente. Dans la plupart des cas ce sont des autorités administratives; dans certains cantons les tribunaux sont compétents.
8. c) Le demandeur doit-il supporter des frais juridiques liés à la demande d'indemnisation ?	Non, cf. art. 30 LAVI. Exception: demande ou recours téméraire.
8. d) L'auteur de l'infraction a-t-il le statut de partie à la procédure d'indemnisation ?	Non
9. Les décisions relatives à l'indemnisation par l'Etat peuvent-elles faire l'objet d'un recours par le demandeur ?	Oui. La procédure judiciaire est soumise à deux instances (une cour cantonale et le Tribunal fédéral).
10. Des études ont-elles été effectuées sur la mise en œuvre du dispositif interne d'indemnisation par l'Etat ? Si la réponse est positive, quelles en sont les principales conclusions ?	Oui. Diverses évaluations ont été réalisées. La dernière évaluation date de décembre 2015. Elle a montré que la loi sur l'aide aux victimes est satisfaisante mais que l'application pourrait être améliorée. Par contre, la situation des victimes dans la procédure pénale doit être revue. Un projet de révision sera publié en automne 2017. Vous trouverez plus d'informations concernant la dernière évaluation de la loi dans <a href="#">le document</a> "extraits de l'évaluation de la loi sur l'aide aux victimes",
<b>LA DIMENSION TRANSFRONTALIERE ET LA COOPERATION INTERNATIONALE</b>	
11. Les touristes victimes ou d'autres individus, qui ne sont pas des résidents permanents de votre pays, mais qui sont des ressortissants d'autres Parties à la Convention et/ou d'Etats membres du Conseil de l'Europe sont-ils éligibles à l'indemnisation par l'Etat ?	Oui. L'aide aux victimes est accordée lorsque l'infraction a été commise en Suisse (art. 3 LAVI).
12. Dans votre pays, les résidents de pays qui ne sont pas membres du Conseil de l'Europe sont-ils éligibles à l'indemnisation par l'Etat ?	Oui. L'aide aux victimes est accordée lorsque l'infraction a été commise en Suisse (art. 3 LAVI).
13. De quelle manière les informations concernant l'indemnisation par l'Etat sont-elles rendues accessibles aux victimes transfrontalières ?	cf. réponse no. 7. Lors de la première audition, la police ou le ministère public informent de manière détaillée la victime sur ses droits et devoirs dans le cadre de la procédure pénale (art. 305 code de procédure pénale). En outre, des informations sont publiées sur internet notamment la possibilité de contacter les centres d'aide aux victimes.

14. Quel fondement juridique utilisez-vous pour assurer la coopération internationale ? *Pour les Etats membres de l'Union européenne, quel fondement juridique, autre que la Directive 2004/80/CE du Conseil du 29 avril 2004 relative à l'indemnisation des victimes de la criminalité, utilisez-vous pour assurer la coopération internationale ?	L'Office fédéral de la justice se fonde sur l'article 12 de la Convention européenne relative au dédommagement des victimes d'infractions violentes (STE n°116).
15. L'administration chargée de l'indemnisation par l'Etat a-t-elle rencontré des problèmes dans la gestion de demandes transfrontalières ? Si tel est le cas, merci de préciser.	Les cantons sont compétents dans la gestion des demandes. Normalement ils sont en mesure de traiter les cas transfrontaliers eux-mêmes. A l'occasion, ils demandent à l'Office fédéral de la justice de les assister pour obtenir des actes de l'étranger.
<b>POINTS DE VUE DE TOUS LES ETATS MEMBRES</b>	
20. Seriez-vous en faveur d'une mise à jour de la Convention européenne relative au dédommagement des victimes d'infractions violentes (STE n° 116) par le biais d'un Protocole additionnel ou un Protocole y portant amendement ? Si tel est le cas, merci de préciser ce que devrait couvrir une telle mise à jour ou un tel amendement.	Nous n'avons pas connaissance de problèmes qui nécessiteraient d'agir: la convention donne satisfaction.
21. Préfereriez-vous l'élaboration d'une recommandation avec des lignes directrices qui complètent la Convention ? Si tel est le cas, merci de préciser ce que ces lignes directrices devraient couvrir.	Nous n'avons pas connaissance de problèmes qui nécessiteraient d'agir: la convention donne satisfaction.

## THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

<b>QUESTIONS FOR STATES THAT ARE NOT PARTIES TO THE CONVENTION</b>	
16. Is your government considering ratifying the Convention?	After the drafting of a new law which would be named the "Law on compensation of the victims", an analysis will be done on the harmonization of the Convention with the national Laws which will be the base for the ratification of the Convention.
17. Has legislation been enacted on compensation from the State to victims of violent crimes? Is it available in English?	Yes, there is a legislation enacted on compensation from the State to the victims of crimes. Chapter 5 of The Law on the criminal procedure (Official Gazette of the Republic of Macedonia nr. 150/10) includes articles dealing with: Victims, Injured party and

	<p>Private Plaintiff. Victims of criminal offence for which a prison sentence of at least four years has been pronounced, as stated in the Law on the criminal procedure, have the right to compensation from the State. Victims have a right to a councillor at the expense on budgetary funds and right to be compensated for material and non-material damages from a state fund.</p> <p>In relation to the question, below you will find a quotation of the Law on criminal procedure and in specific Articles 53, 54 and 55 which deal Victim's rights, Special rights for vulnerable victims and Special rights for victims of criminal offences against gender freedom and gender morality, humanity and international law.</p>
18. Are victims of crime in your country covered by State compensation irrespective of their nationality or residence, or are there restrictions as to the territorial scope of application?	A new law (Law on compensation of the victims) is going to be drafted, which will cover this issue.
19. Is your government considering proposals in order to improve the status of victims of violent crimes? If yes, please specify.	Yes, our government is considering proposals in order to improve the status of victims of violent crimes. Just as stated above, a new law is being drafted which will deal with: the right to compensation for victims of criminal offenses, the rights of victims, types of compensation, the competencies of the body competent for the compensation of victims of criminal violence, as well as the election, the source for financing the payment for the compensation of victims. Informing and teaching the victims, the procedure for exercising the right to compensation.
20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.	-
21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.	

## UNITED KINGDOM

ELIGIBILITY	
1.Does your national law on state compensation operate on the basis of the principle of subsidiarity? In other words; is compensation only paid when it is not fully available from other sources? Please explain how the principle is applied.	<p>State compensation for victims of violent crime in Great Britain (England, Wales and Scotland) is set out in the Criminal Compensation Scheme (the Scheme), which was laid before Parliament under section 11(1) of the Criminal Injuries Compensation Act 1995. The Scheme is intended to be one of last resort. Where the opportunity exists for an applicant to pursue compensation elsewhere they should do so. All reasonable steps should be taken to obtain any social security benefits, insurance payments, damages or compensation to which an applicant may be entitled as a result of their injuries.</p> <p>Paragraph 85 of the Criminal Injuries Compensation Scheme 2012 sets out when an award will be reduced or withheld due to other payments being made in respect of the criminal injury to which the award relates.</p> <p>A <a href="#">link</a> to the Criminal Injuries Compensation Scheme 2012 and to details about CICA are attached: State compensation for victims of violent crime in Northern Ireland is set out in the Northern Ireland Criminal Injuries Compensation Scheme (the NI Scheme). The NI Scheme was made by the Secretary of State under the Criminal Injuries Compensation (Northern Ireland) Order 2002. Following the positive cross community vote in the Assembly on 9 March 2010, responsibility for policing and justice transferred from the Northern Ireland Office to the Department of Justice for Northern Ireland on 12 April 2010.</p> <p>Like the Scheme applicable in Great Britain, the NI Scheme is also intended to be a scheme of last resort. Where the opportunity exists for an applicant to pursue compensation elsewhere they should do so. All reasonable steps should be taken to obtain any social security benefits, insurance payments, damages or compensation to which an applicant may</p>

	<p>be entitled as a result of their injuries.</p> <p>Paragraphs 46 - 50 of the Northern Ireland Criminal Injuries Compensation Scheme 2009 sets out when an award will be reduced or withheld due to other payments being made in respect of the criminal injury to which the award relates.</p> <p>A <a href="#">link</a> to the Northern Ireland Criminal Injuries Compensation Scheme (2009) is attached</p>
2. a) Which crimes are covered by the national law on state compensation in your country?	<p>Crimes of violence are covered under the Scheme. The definition of a crime of violence can be found at Annex B of the Criminal Injuries Compensation Scheme 2012.</p> <p>The NI Scheme sets out which crimes are covered at paragraph 8.</p>
2.b) Are crimes, not classified as intentional crimes of violence, also covered by the law? Please specify.	<p>Crimes may still qualify for compensation even when the assailant did not specifically target the victim but acted recklessly; that is, they actually foresaw that someone may be injured and yet continued to act despite the risk.</p> <p>Additionally, in exceptional cases, an act may be treated as a crime of violence where the assailant:</p> <ul style="list-style-type: none"> <li>(a) is not capable of forming the necessary mental element due to insanity; or</li> <li>(b) is a child below the age of criminal responsibility who in fact understood the consequences of their actions.</li> </ul>
3. Is your national law restricted to serious bodily injury or impairment of health, as stated in the Convention? If not, please specify.	<p>The Scheme is not restricted to serious bodily injury or impairment of health. It operates a tariff of injuries, with compensation payable for a wide range of both physical and mental injuries.</p> <p>Compensation payments range from £1,000 (level 1) for relatively minor injuries (such as perforated ear drums or fractured zygoma) to £250,000 (level 20) for life altering injuries (such as very serious brain injury or quadriplegia/tetraplegia substantially complete to both upper and lower limb levels). The</p>

	level of compensation paid is dependent upon the severity of the injuries sustained.
4. Which elements of compensation are paid to victims by the State in your country? (for example, loss of earnings, medical and hospitalisation expenses, non-material compensation).	<p>A. The types of payment which may be made under the Scheme are:</p> <p>(a) Injury payments (paragraphs 32 to 41). This includes mental or physical injury following a crime of violence, sexual or physical abuse;</p> <p>(b) Loss of earnings payments (paragraphs 42 to 49). This may be payable when an applicant has no or limited capacity to work as a direct result of a criminal injury for at least 28 weeks.</p> <p>(c) Special expenses payments (paragraphs 50 to 56). These may be payable when an applicant has sustained an injury for which they are eligible for an injury payment and has lost earnings or earning capacity, or been incapacitated to a similar extent, for more than 28 weeks. Paragraph 51 sets out when a payment in relation to special expenses will be made, and paragraph 52 of the Scheme gives details of the type of special expenses paid;</p> <p>(d) Bereavement payments (paragraphs 61 and 62). This may be payable to a qualifying relative in respect of a fatality caused by a crime of violence. (A qualifying relative is described at paragraph 59 and may be the spouse, partner, parent or child of the deceased);</p> <p>(e) Child's payments (paragraphs 63 to 66). This may be paid to a qualifying claimant who was at the time of the death of the deceased under 18 years old and dependent on the deceased for parental services;</p> <p>(f) Dependency payments (paragraphs 67 to 74). This may be made to a qualifying relative who at the time of the deceased's death was financially or physically dependent on the deceased. A qualifying relative was physically dependent on the deceased if the deceased was their main carer;</p>



	<p>(g) Funeral payments (paragraphs 75 to 77). Where a person has died as a direct result of a crime of violence, a funeral payment may be made in respect of their funeral expenses for the benefit of their estate;</p> <p>(h) Certain other payments in fatal cases (paragraphs 78 to 84). Payments may be made to a qualifying relative of the deceased when the cause of death is unrelated to the criminal injury if, at the time of death, the deceased was eligible for, but had not received, a final award under this Scheme; and the qualifying relative was financially dependent on the deceased.</p> <p>The types of payment which may be made under the NI Scheme are noted at paragraph 24.</p>
<p>5. a) How is compensation to victims of violent crimes decided and calculated?</p>	<p>HM Government sets out the eligibility criteria and tariff awards for compensation in the Criminal Injuries Compensation Scheme. CICA administers the Scheme throughout England and Wales, and in Scotland. Northern Ireland has a separate scheme.</p> <p>In 1996 the first statutory Scheme came into force following the Criminal Injuries Compensation Act 1995. Subsequent Schemes were made under the 1995 Act in 2001 and 2008, and the current Scheme came into effect in 2012.</p> <p>Compensation is given to victims of violent crime in recognition of a sense of public sympathy for the pain and suffering of the victim. The majority of these payments are made under a tariff of injuries at Annex E of the Scheme. The tariff is made up of 20 bands with the least serious injuries in band one (e.g. perforated ear drums) receiving £1,000, and the most serious in band 20 (e.g. quadriplegia/tetraplegia substantially complete to both upper and lower limb levels) receiving £250,000.</p> <p>The tariff of injuries is split into two parts. Part A of</p>

	<p>Annex E covers injuries such as burns, paralysis, medically recognised illness, mental injury, peripheral sensory nerve damage and motor nerve damage as well as injuries to the head and neck, upper limbs, torso and lower limbs. Part B of Annex E covers fatal injuries, physical abuse in adults, sexual abuse, child abuse, infection as a result of sexual abuse and loss of foetus.</p> <p>Prior to 1996 compensation was generally assessed on the basis of common law damages. Calculations were therefore made on a basis similar to that which applies in actions for negligence and other civil wrongs, and included loss of earnings, but not exemplary or punitive damages.</p> <p>The Northern Ireland Executive sets out the eligibility criteria and tariffs for compensation in the Northern Ireland Criminal Injuries Compensation Scheme.</p>
<p>5. b) How are the provisions of Article 8 of the Convention reflected in your legislation and how are they applied?</p>	<p>The Criminal Injuries Compensation Scheme sets out certain eligibility criteria which must be met before compensation can be paid to an applicant.</p> <p>An award may be withheld or reduced where the conduct of the applicant before, during or after the incident giving rise to the criminal injury makes it inappropriate to make an award or a full award (paragraph 25).</p> <p>An award will be withheld or reduced because the applicant to whom an award would otherwise be made has unspent convictions (paragraph 26).</p> <p>An award may be withheld or reduced because the applicant's character, other than in relation to an unspent conviction, makes it inappropriate to make an award or a full award (paragraph 27).</p> <p>An award made in respect of a fatal criminal injury may be withheld or reduced if the deceased's conduct before, during or after the incident giving</p>

	<p>rise to their death makes it inappropriate to make an award or full award (paragraph 28).</p> <p>An award made in respect of a fatal criminal injury may be withheld or reduced if, for exceptional reasons, the deceased's character on the date of their death, whether due to their unspent convictions or otherwise, makes it inappropriate to make an award or a full award (paragraph 28).</p> <p>All previous statutory schemes, and the earlier non-statutory schemes, include similar eligibility criteria.</p>
<p>5. c) Does your national law provide for the possibility to provide the applicant with advances on costs prior to the final decision on compensation? If yes, for which purpose and to what limits?</p>	<p>Compensation payable under the current and previous schemes is normally paid as a single lump sum; however, provision is made in each scheme to allow one or more interim payments to be paid prior to the final decision being made.</p> <p>Interim payments can only be made once eligibility to receive compensation has been fully established. Reasons for making an interim payment may include (but are not limited to): longer than normal time frames to finalise a case; serious injury where the injury banding can be determined but supplementary issues such as loss of earnings or special expenses may take some time to calculate; financial hardship; applicant is elderly or suffering from a terminal illness; a need for special equipment (such as a wheelchair).</p> <p>The amount of an interim payment is determined by CICA based on the available evidence and is usually limited to part or all of the amount payable for qualifying injuries. Each case is decided on its own merits and takes into account the probable final payable amount.</p>
<p>5. d) Does your national law prescribe a period of time in which to apply for compensation?</p>	<p>The Scheme requires that an application for compensation is made within two years of the incident giving rise to the criminal injury. The time limit for receiving applications can be extended under certain circumstances.</p>

	<p>An application for compensation falls to be decided under the scheme in operation at the time of application rather than at the time of the incident.</p> <p>The current (2012) scheme makes provision for applicants who were under 18 at the time of the incident giving rise to a criminal injury to submit an application outside the reporting period under certain circumstances: in the case of an incident reported to the police before the applicant's 18th birthday, within the period ending on their 20th birthday; or in the case of an incident reported to the police on or after the applicant's 18th birthday, within two years after the date of the first report to the police in respect of the incident.</p> <p>The time limit can also be extended if it is deemed that, due to exceptional circumstances, the application could not have been made earlier. In all circumstances, the time limit can only be extended if the evidence presented in support of the application means that it can be determined without further extensive enquiries by a claims officer.</p>
<p>6. Do victims of terrorism have any specific status in your domestic law?</p>	<p>No. Victims of terrorist acts committed in Great Britain can make an application for compensation from the Criminal Injuries Compensation Authority. Applicants are subject to the eligibility rules applicable at the time of application. The current applicable scheme is the Criminal Injuries Compensation Scheme 2012.</p> <p>Additionally, the Victims of Overseas Terrorism Compensation Scheme is a government funded scheme set out by Parliament under the Crime and Security Act 2010. It is designed to compensate blameless victims who sustain a relevant injury which is directly attributable to their being a direct victim of a designated act of terrorism overseas. It is administered by the Criminal Injuries Compensation Authority on behalf of the Secretary of State.</p> <p>Like the Criminal Injuries Compensation Scheme</p>

	<p>2012, the Victims of Overseas Terrorism Scheme is intended to be one of last resort. Where the opportunity exists for an applicant to pursue alternative compensation in the United Kingdom or elsewhere they should do so.</p> <p>Both Schemes apply to all applications received on or after 27 November 2012.</p> <p>An applicant may be eligible for an award if they sustained a relevant injury which was directly attributable to being a direct victim of a designated act. A designated act means an act designated under section 47 of the Crime and Security Act 2010. CICA is not responsible for deciding if an act should be designated. The CICA refer the matter to the Foreign Secretary to consider the facts and circumstances of violent incidents committed overseas and to decide whether the incident should be classed as a designated act.</p> <p>Victims can currently claim for the following terrorist acts:</p> <ul style="list-style-type: none"> <li>• attack in Berlin, Germany (19 December 2016)</li> <li>• attacks in Brussels, Belgium (22 March 2016)</li> <li>• attacks in Paris, France (13 November 2015)</li> <li>• attack at Port el Kantaoui near Sousse, Tunisia (26 June 2015)</li> <li>• attack at the Bardo National Museum in Tunis, Tunisia (18 March 2015)</li> <li>• attack at the Westgate shopping mall in Nairobi, Kenya (21 September 2013)</li> <li>• kidnap of Setraco employees in Jama'are, Nigeria (16 February 2013)</li> <li>• hostage crisis at In Amenas, Algeria (16 January 2013)</li> </ul>
<p>7. Which steps have been taken to ensure that information about the scheme is available to potential applicants?</p>	<p>Public awareness of the CICA and the scheme is ensured through information made available to victims of crime from the very beginning of the criminal justice process when a victim reports a crime to the police. Examples of publicising of the CICA and the scheme are set out below.</p> <p>The Information for Victims of Crime leaflet sets out what someone reporting a crime can expect from the</p>

	<p>criminal justice system if they are a victim of crime. The police provide this leaflet to victims when they report a crime. It contains information about organisations that victims can contact for free advice, practical information and emotional support. The leaflet informs victims that they may be eligible for criminal injuries compensation from the CICA and provides details of how they can apply.</p> <p>Online Information and Guidance: Information about the CICA and the scheme is available to potential applicants via <a href="http://www.gov.uk">www.gov.uk</a>.</p> <ul style="list-style-type: none"> <li>• GOV.UK is a United Kingdom public sector information website, created by the Government Digital Service to provide a single point of access to HM Government services.</li> </ul> <p>The Code of Practice for Victims of Crime (Victims' Code): The MoJ is responsible for the Victims' Code developed pursuant to the Domestic Violence, Crime and Victims Act 2004. The first Code came in to effect in 2006 and was updated in 2013 and 2015. The Victims' Code sets out the entitlements for victims of crime to services, and corresponding obligations on criminal justice agencies (e.g. police, Crown Prosecution Service, courts, the CICA etc.) to provide those services.</p> <ul style="list-style-type: none"> <li>• Entitlements include receiving information on what to expect from the criminal justice system, to be referred to organisations supporting victims of crime, and to make an application under the Criminal Injuries Compensation Scheme.</li> <li>• The Code (at Chapter 2, Section 8, page 36) sets out how a victim can make an application for criminal injuries compensation and what services they can expect from the CICA. This includes information on appealing a decision by the CICA.</li> </ul>
<p>8.a) Have measures been taken to assist victims in making an application for compensation?</p>	<p>Information about what the CICA is and what it does is set out on GOV.UK as set out above. The MoJ and the CICA have created a guide for applicants providing information on all the aspects of the scheme including eligibility and types of payments. It also explains how applicants can use the guide.</p>

	<p>The guide can be found at the following <a href="#">link</a> In addition, the CICA has a helpline for all general enquiries, for making an application by telephone or to get help with applications.</p> <p>If the crime happened in an EU country a victim can contact the EU Compensation Assistance Team to apply for compensation from the country, they were injured in.</p>
8.b) To which competent authorities should applications for compensation be submitted?	The Criminal Injuries Compensation Authority.
8.c) Are applicants obliged to bear any legal expenses related to applications for compensation?	<p>The process for making a CICA application is a relatively straightforward process and there is guidance and support available from CICA itself to help victims make their applications. Applicants do not need a paid representative such as a solicitor or claims management company to apply for compensation. Free independent advice may be available from Victim Support or other charitable organisations.</p> <p>If the applicant chooses to have paid representation the MoJ or the CICA cannot meet the cost of this, and the applicant will have to pay these costs themselves.</p>
8.d) Do perpetrators have the status of a party in compensation proceedings?	No. The application process under the Scheme is between Applicant and CICA.
9. Can decisions on State compensation be appealed against by the applicant?	An applicant is entitled to request a review of a decision by the CICA and, if unhappy with the review decision can appeal to the First-tier Tribunal.
10. Have studies been undertaken on the implementation of the domestic scheme for State compensation? If the answer is yes, what are the main results?	The Ministry of Justice have not carried out any studies on the implementation of the Scheme 2012.
11. Are tourist victims or other individuals who are not permanent residents in your country but who are nationals of other Parties to the Convention and/or of Council of Europe member States, eligible for state compensation?	We are required to make compensation available to EU and EEA nationals because of our current obligations under EU law. This includes those victims who have been referred to National Referral Mechanism as a potential victim of human trafficking, or those who have made an application for asylum. The UK is also a signatory to the European Convention on the Compensation of Victims of Violent Crime. This Convention puts upon States that become a Party to it the obligation

	<p>to compensate the victims of intentional and violent offences resulting in bodily injury or death. The obligation to compensate is limited to offences committed on the territory of the State concerned, regardless of the nationality of the victim.</p>
<p>12. Are residents of countries that are not members of the Council of Europe, eligible for State compensation in your country?</p>	<p>Paragraph 10 of the Scheme states that a person is eligible for an award under this Scheme only if:</p> <ul style="list-style-type: none"> <li>(a) that person was ordinarily resident in the United Kingdom on the date of the incident giving rise to the criminal injury;</li> <li>(b) one of the conditions in paragraph 11 (see below) was satisfied in relation to them on the date of the incident giving rise to the criminal injury; or</li> <li>(c) one of the conditions in paragraph 13 (see below) is satisfied in relation to them on the date of their application under this Scheme.</li> </ul> <p>Paragraph 11 of the Scheme states that the conditions referred to in paragraph 10(b) are that the person was:</p> <ul style="list-style-type: none"> <li>(a) a British citizen;</li> <li>(b) a close relative of a British citizen;</li> <li>(c) a national of a member state of the European Union or the European Economic Area;</li> <li>(d) a person who had a right to be in the United Kingdom by virtue of being a family member of a national of a member state of the European Union or the European Economic Area;</li> <li>(e) a national of a State party to the Council of Europe Convention on the Compensation of Victims of Violent Crimes (CETS No. 116, 1983);</li> <li>(f) a member of the armed forces; or</li> <li>(g) an accompanying close relative of a member of the armed forces.</li> </ul> <p>Paragraph 13 of the scheme states that the conditions referred to in paragraph 10(c) are that the person has:</p> <ul style="list-style-type: none"> <li>(a) been referred to a competent authority as a potential victim of trafficking in human beings; or</li> <li>(b) made an application for asylum under Immigration Rules made under section 3(2) of the</li> </ul>



	Immigration Act 1971.
13. How is information about State compensation made available to cross-border victims?	There is information for victims of crime injured abroad at the following link: <a href="https://www.gov.uk/compensation-victim-crime-abroad">https://www.gov.uk/compensation-victim-crime-abroad</a>
14. What legal basis do you use to ensure international co-operation? *For the European Union Member States, other than Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, what legal basis do you use to ensure international cooperation?	The UK is also a signatory to the European Convention on the Compensation of Victims of Violent Crime. This Convention puts upon States that become a Party to it the obligation to compensate the victims of intentional and violent offences resulting in bodily injury or death. The obligation to compensate is limited to offences committed on the territory of the State concerned, regardless of the nationality of the victim.
15. Has the administration of State compensation come across problems in the management of cross-border applications? If yes, please specify.	<p>The Criminal Injuries Compensation Authority (CICA) who has management of cross-border applications have reported the following issues:</p> <ol style="list-style-type: none"> <li>1) EU Member States correspond in their own language. It would be helpful to also have a transcript in English.</li> <li>2) Information could be more accessible from European portal – the information contained in The European Judicial Atlas is now obsolete but when an attempt is made to try to obtain information from the portal it can take some time to search as you are required to go into so many different categories, and in some cases you are reverted back to the Atlas (which is out-dated).</li> <li>3) Copies of schemes applicable in each Member State are not available to other Member States in their own language.</li> <li>4) A lack of responses or delays in responding or acknowledging receipt of information from CICA by some EU Member States</li> <li>5) Variances in the schemes applicable across Member States make it difficult to advise potential applicants in relation to an application.</li> </ol>

<p>20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.</p>	<p>Not at this time</p>
<p>21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.</p>	<p>Not at this time</p>