

# WORKSHOP “PROTECTION OF VICTIMS OF TERRORIST ACTS”



- ▶ Proceedings of the Workshop organised by the Steering Committee for Human Rights (CDDH) under the aegis of the French Presidency of the Committee of Ministers (Strasbourg, 20 June 2019)
- ▶ Compilation of the replies received from member States on the protection of victims of terrorist acts

EUROPEAN CONVENTION  
ON HUMAN RIGHTS



CONVENTION EUROPÉENNE  
DES DROITS DE L'HOMME

COUNCIL OF EUROPE



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# PROTECTION OF VICTIMS OF TERRORIST ACTS

➤ **Proceedings of the Workshop of  
20 June 2019**

*(organised by the Steering Committee for Human Rights  
(CDDH) under the aegis of the French Presidency of the  
Committee of Ministers)*

➤ **Compilation of the replies received from  
member States on the protection of  
victims of terrorist acts**

**Council of Europe**

**French edition:**

*ATELIER « PROTECTION DES VICTIMES  
D'ACTES TERRORISTES »*

- *Actes de l'Atelier*
- *Compilation des réponses reçues des États membres sur la protection des victimes d'actes terroristes*

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## **Proceedings of the Workshop “Protection of victims of terrorist acts”**

organised by the French Presidency of the Committee of Ministers  
in cooperation with the  
Steering Committee for Human Rights (CDDH)

(Thursday 20 June 2019)

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## PROGRAMME

- 14:00 **OPENING SESSION**
- 14:00 **Mr Hans-Jörg BEHRENS**, Chair of the Steering Committee for Human Rights (CDDH), Council of Europe
- 14:05 **Ambassador Jean-Baptiste MATTEI**, Permanent Representative of France to the Council of Europe, Chair of the Committee of Ministers
- 14:10 **Mr Christos GIAKOUMOPOULOS**, Director General, Directorate General Human Rights and Rule of Law, (DGI)  
"The revised Guidelines on the protection of victims of terrorism in context"
- 14:20 **Mr Wojciech SAWICKI**, Secretary General of the Parliamentary Assembly of the Council of Europe -  
"Protecting and supporting the victims of terrorism"
- 14:30 **Mr Linos-Alexandre SICILIANOS**, President of the European Court of Human Rights "Terrorism and Human Rights - challenges for the European Court of Human Rights"
- 14:40 **WORKING SESSION I**  
**The revised Guidelines of the Committee of Ministers on the protection of victims of terrorist acts**
- 14:40 **Mr Chanaka WICKREMASINGHE**, CDDH Representative before the Council of Europe Committee on Counter-Terrorism (CDCT) - "Presentation of the revised Guidelines on the protection of victims of terrorist acts"
- 14:50 **Mr Mario JANEČEK**, President of the Council of Europe Committee on Counter-Terrorism (CDCT)  
"Activities of the Counter-Terrorism Committee"
- 15:00 **Mr Ledi BIANKU**, former judge of the European Court of Human Rights, Associate Professor, University of Strasbourg  
"The European Convention on Human Rights and victims of terrorism"
- 15:10 **Ms Annick HIENSCH**, Liaison Officer, UN Office of Counter-Terrorism - "United Nations action in support of victims of terrorism"
- 15:15 **Mr Edo KORLJAN**, CDDH Secretariat - "Analysis of replies of the Council of Europe member states to the CDDH questionnaire"
- 15:20 **Discussion**
- 15:50 **Coffee break**

- 16:20 **WORKING SESSION II**  
**Best practices in the protection of human rights of victims of terrorist acts**
- 16:20 **Ms Elisabeth PELSEZ**, Inter-ministerial Delegate for victims' support, France - "The French system of caring for and supporting victims of terrorism"
- 16:35 **Ms Jelena WATKINS**, Psychotherapist and Support Officer for Disaster Action, United Kingdom "Lessons learnt in the UK in provision of psychosocial support following terror attacks at home and abroad"
- 16:45 **Ms An VERELST**, Psychiatrist, Ghent University, Belgium INVICTM International Network Supporting Victims of Terrorism and Mass Violence - "Psychosocial support to victims of terrorism in Belgium"
- 17:00 **Mr Ahmet MOLLAMAHMUTOĞLU**, Reporter Judge, Ministry of Justice, Turkey - "Legal and financial aid provided to the victims of terrorist acts in Turkey"
- 17:10 **Ms Aleksandra IVANKOVIĆ**, Deputy Director, Victim Support Europe - "Addressing the needs of victims of terrorism"
- 17:25 **Discussion**
- 18:00 **Conclusion**  
Concluding remarks and official closing of the Workshop by the Chair of the CDDH
- 18:10 ***Vin d'honneur* offered by the French Chairmanship of the Committee of Ministers**



## OPENING SESSION

### **Mr Hans-Jörg BEHRENS**

*Chair of the Steering Committee for Human Rights (CDDH),  
Council of Europe*

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Excellencies, ladies and gentlemen, dear friends from the Committee,

In the name of the Steering Committee for Human Rights, it is my pleasure to open the Workshop on the protection of victims of terrorist acts.

You will remember that the Committee of Ministers adopted the Revised Guidelines on this topic in May 2017 in Nicosia. The revision came only 12 years after the initial adoption of the Guidelines in 2005 and you will probably also remember that we first started work on Guidelines on human rights and the fight against terrorism in 2002 in the aftermath of the 11<sup>th</sup> September attacks.

At that time the guidelines were very much needed. We ought to remind ourselves of the essential principles of human rights and of our core values in the fight against terrorism, of the values upheld by the European Court of Human Rights. It was even necessary to acknowledge publicly the obvious fact that human rights protect everyone, even terrorists.

But since the initial focus was so much on the perpetrators, there was also a real risk that the governments would not pay sufficient attention to the sufferings of the victims of terrorism. Therefore, it quickly became clear that the victims should also be a focus of attention for the human rights community.

In this spirit, in 2005 the first Guidelines on the protection of victims were adopted. After some time, however, as terrorist attacks continued to take place in Europe, member States felt the need to amend and update the Guidelines. In his report in 2016, the Secretary General of the Council of Europe, Thorbjörn Jagland, recommended that the Guidelines should be updated. Our Committee, the Steering Committee for Human Rights, undertook the task of revising the Guidelines and the Committee of Ministers adopted them, as I said, in Nicosia in 2017.

For the Steering Committee, there is also another dimension to this whole exercise. The Guidelines are there to show that in our fight against terrorism and in our commitment to the protection of victims, all member States are united. In the Council of Europe, victims must be sure to receive proper attention and proper recognition, no matter where they have suffered an attack, no matter where they come from. It is a matter of course that everywhere within the area of the Council of Europe, the same standards apply. This is a matter for international cooperation, a perfect example of the value of intergovernmental cooperation. The Council of Europe has shown its great value in bringing about intergovernmental cooperation in this field as in many others.

What have we done in preparation for this workshop? The Secretariat has sent a number of questions to the member States concerning the implementation of the Guidelines. The answers – and I am happy to say that we have received many – have been compiled together with a summary and analysis; the paper is available in the room.

## **Ambassador Jean-Baptiste MATTEI**

*Permanent Representative of France to the Council of Europe  
Chair of the Committee of Ministers*

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Monsieur le Président de la Cour européenne des droits de l'Homme,  
Monsieur le Président du CDDH,  
Mesdames et Messieurs les Ambassadrices et les Ambassadeurs,  
Mesdames et Messieurs,

Il me revient l'honneur d'ouvrir cet atelier du CDDH consacré à la protection des victimes d'actes terroristes. Il s'agit, vous le savez, d'un thème particulièrement cher à la France, que la présidence française du Comité des Ministres a tenu à mettre en lumière, au regard de l'attention prioritaire que nos Etats européens doivent aux victimes du terrorisme.

Comme d'autres pays, la France a été durement touchée par les attentats terroristes. On en comptait 27 sur le seul territoire national, de 2012 et 2018. Ceux commis depuis 2015 ont fait plus de victimes que l'ensemble des actes terroristes dont la France a été victime au cours des trente années précédentes<sup>1</sup>. Les attentats de Charlie Hebdo, du Bataclan ou de Nice ont particulièrement marqué l'opinion, qui garde en mémoire les visages des nombreuses victimes, diffusés pendant de longues semaines sur nos écrans.

Il s'agit néanmoins d'un sujet qui concerne toute l'Europe et au-delà, pour lequel il convient d'être solidaires et de rechercher ensemble les meilleures solutions. Le Conseil de l'Europe est à cet égard un forum particulièrement adapté. Les droits de l'Homme, l'Etat de droit et la démocratie sont précisément les valeurs auxquelles le terrorisme entend s'attaquer. Lorsque le terrorisme frappe, la fidélité à ces valeurs implique que les mesures prises à l'égard des victimes soient à la hauteur de l'idéal qu'elles représentent et qu'elles répondent à l'ensemble des besoins de ces victimes, sans attendre que celles-ci le demandent et sans retard.

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<sup>1</sup> Données issues du rapport « La prise en charge financière des victimes de terrorisme » de la Cour des comptes adressé à la Commission des finances du Sénat en décembre 2018.

Les lignes directrices du Conseil de l'Europe sur la protection des victimes du terrorisme, révisées en 2017 en réponse aux diverses manifestations du terrorisme, ont fixé la mesure de cette exigence. Articulées autour de 14 principes essentiels, elles insistent sur la nécessité de fournir aux victimes une réponse globale.

Il s'agit d'abord d'offrir à ces victimes un cadre juridique et administratif approprié et sans discrimination, de mener une politique efficace de protection, de soutien financier, d'indemnisation et de reconnaissance des souffrances endurées. Il convient aussi d'apporter en temps utile une assistance médicale, psychologique, sociale et matérielle d'urgence et gratuite, sans négliger l'importance d'une assistance continue, l'obligation de mener efficacement les enquêtes, d'assurer un accès effectif au droit et à la justice ou de protéger la vie privée et familiale, la dignité et la sécurité de l'ensemble des victimes identifiées.

L'atelier d'aujourd'hui doit nous permettre, à cet égard, d'échanger sur nos dispositifs législatifs et réglementaires ainsi que sur nos meilleures pratiques. Les divers intervenants présents parmi nous sont ici pour nous y aider. Je me réjouis, s'agissant de la France, que notre déléguée interministérielle à l'aide aux victimes, Mme Pelsez, soit présente, ainsi que d'autres orateurs et représentants d'organisations internationales et de la société civile, y compris France Victimes, l'Association française des victimes de terrorisme et la Promenade des anges.

Je vous souhaite des échanges fructueux et profitables à tous et je forme le vœu que cet atelier nous permette d'approfondir encore la mise en œuvre des lignes directrices sur la protection des victimes de terrorisme.

## **Mr Christos GIAKOUMOPOULOS**

*Director General*

*Directorate General Human Rights and Rule of Law – (DGI)*

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Mr President, Mr President of the Committee of Ministers, Mr President of Court, Mr Secretary General of the Parliamentary Assembly, ladies and gentlemen,

We all know the devastating consequences of the terrorist acts which have taken place in Europe in recent years, first and foremost for the victims themselves, but also for their families. It took the international community some time to realise that victims of terrorism cannot be left alone with their suffering, be it physical or psychological. Our societies have a duty to help them to overcome the consequences of terrorist acts, and to the extent possible, return to a normal life.

In this context, I would very much like to thank and welcome the initiative of the French Chairmanship of the Committee of Ministers to organise this workshop, as one of its priorities. Indeed, the initiatives taken by France in this area to improve the protection of victims of terrorism, both at national and international levels, are important and are to be praised.

I would also like to welcome the presence of representatives of civil society. It is of paramount importance that their voice be heard. As the Secretary General said when the revised Guidelines were adopted, “it is indeed for the State to reach out to victims of terrorist acts, not the other way around”.

Terrorism takes varied and changing forms, and member States should be particularly attentive to the matter and embrace the relevant Council of Europe standards. To this end, these standards, as expressed or recalled in the relevant Council of Europe Guidelines should be made known and used, starting – perhaps - with their translation into national languages. Luckily, a number of our member states have never experienced terrorist attacks, but those who have, were not always well prepared to react to them: therefore, these Guidelines are the Council of Europe’s timely response to a real-life problem, and not an academic exercise.

The previous Guidelines on the protection of victims of terrorist acts were adopted in 2005. In his 2016 Annual Report on “The fight against violent extremism and radicalisation leading to terrorism”, the Secretary General called for the revision of the 2005 Guidelines in order to incorporate

additional elements in light of the new faces of terrorism. In his report, the Secretary General identified 4 lines of actions:

1. Implementing a general framework to assist victims;
2. Providing assistance to victims in legal proceedings;
3. Raising public awareness of the need for societal recognition of victims, including the role of the media, and
4. Involving victims of terrorism in the fight against terrorism itself.

The revised Guidelines cover all the above and other very important issues, such as emergency assistance, but also the continued assistance and provision of information to victims, measures and means to ensure their effective access to law and justice, including compensation, the protection of their private and family life, of their dignity and security, and specific training for persons working with victims. Last but not least, the Guidelines also refer to cooperation with civil society, and this is their essential element.

Ladies and Gentlemen,

It should be borne in mind that the Council of Europe has taken a number of steps to address the phenomenon of terrorism. One of them, the 2002 Guidelines on the respect of human rights in the fight against terrorism, was already mentioned by our Chairman.

But there is much more:

The European Court has produced important jurisprudence that guide States Parties to the European Convention on Human Rights when taking steps to fight terrorism. Further, our Parliamentary Assembly is working on a report devoted to the protection of victims of terrorist acts. The Congress of Local and Regional Authorities has been actively working on radicalisation issues. At the intergovernmental level, beyond the CDDH, our Counter-Terrorism Committee (CDCT, previously known by many of you as CODEXTER), has adopted several conventions concerning terrorism, and adopted a new Anti-Terrorism Strategy 2018-2022.

I believe all these initiatives will be presented today, and would like again to express my gratitude to the French Presidency of the Committee of Ministers for this initiative, and conclude by saying that our organisation remains ready to assist its member States in implementing the Guidelines and, if necessary, to complete and develop new standards, in the interests of our citizens.

Thank you.

**Mr Wojciech SAWICKI**

*Secretary General of the Parliamentary Assembly of the Council of Europe*

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Messieurs les Présidents,  
Mesdames et Messieurs les Ambassadeurs,  
Mesdames et Messieurs,  
Chers collègues,

Permettez-moi tout d'abord de vous présenter les excuses de Madame Marietta Karamanli, rapporteure de la Commission des questions politiques et de la démocratie qui n'a pas pu être présente aujourd'hui du fait d'un changement de dernière minute dans son agenda parlementaire. Mme Karamanli a préparé un rapport intitulé « Protéger et soutenir les victimes du terrorisme » qui sera présenté à la Commission des questions politiques et de la démocratie lundi prochain, le 24 juin. Un débat en Assemblée est prévu pour la partie de session d'octobre 2019.

À plusieurs reprises, l'Assemblée parlementaire a exprimé, avec la plus grande fermeté, sa condamnation de tous les actes de terrorisme. Ses résolutions en sont la preuve.

La Commission des questions politiques et de la démocratie était déjà sensible à la situation des victimes d'attaques terroristes bien avant la préparation de ce rapport, et a recueilli, à partir de 2016, les témoignages de survivants ou de membres de famille de victimes qui, aux côtés d'experts en la matière, ont fourni de précieuses informations pour mieux comprendre le point de vue des victimes.

Madame Karamanli a identifié des études de cas reflétant différentes approches : ces dernières années, l'Espagne, le Royaume-Uni et la France ont subi des attaques de grande ampleur et, dans certains cas, le terrorisme y perdure depuis plusieurs dizaines d'années déjà. Ceci a amené ces pays à développer et mettre en œuvre des stratégies et des politiques de soutien aux victimes qui méritent d'être partagées avec les États membres du Conseil de l'Europe. Par ailleurs, bien que l'Allemagne ait une histoire récente moins lourde en matière de terrorisme, son expérience des dernières années a mis en lumière des problèmes dont les autres pays pourraient tirer des leçons.

Dans sa proposition de résolution, la rapporteure note qu'un certain nombre d'instruments juridiques existants n'ont pas été pleinement mis en œuvre ni mis en pratique. Elle souligne la nécessité d'une approche plus cohérente et systématique de la protection et du soutien aux victimes du terrorisme qui doit s'imposer dans tous les États membres du Conseil de l'Europe.

Elle proposera donc à l'Assemblée d'inviter les États membres, les Observateurs et les États dont le parlement bénéficie du statut d'observateur ou de partenaire pour la démocratie auprès de l'Assemblée parlementaire à prendre une série de mesures. Certaines seront discutées aujourd'hui telles que la reconnaissance et le statut des « victimes du terrorisme », le soutien aux victimes du terrorisme à l'échelle nationale et internationale ainsi que la coopération avec la société civile.

Madame Karamanli proposera aussi que l'Assemblée invite l'Union européenne à faire en sorte que son Centre d'expertise pour les victimes du terrorisme prenne également une dimension paneuropéenne et coordonne ses activités avec le Conseil de l'Europe. Ceci notamment en vue de promouvoir la pleine application de la Convention du Conseil de l'Europe pour la prévention du terrorisme ainsi que le Protocole additionnel à la Convention, et les Lignes directrices révisées du Comité des Ministres sur la protection des victimes d'actes terroristes du 19 mai 2017.

L'Union européenne pourrait également examiner, en concertation avec le Conseil de l'Europe, la possibilité d'adopter une Charte européenne des droits des victimes du terrorisme, afin de faciliter la reconnaissance, la communication et la coordination en Europe et marquer ainsi l'importance des droits et la reconnaissance du statut de victimes du terrorisme.

Le projet de Recommandation, qui sera discuté la semaine prochaine, souligne que l'assistance aux victimes doit prendre une dimension internationale en raison du risque accru que des citoyens des États membres soient victimes d'une attaque terroriste dans d'autres pays européens ou en dehors de l'Europe. L'Assemblée devrait de ce fait s'adresser au Comité des Ministres afin de recommander à ses États membres de mettre en œuvre, de manière proactive, les Lignes directrices révisées du Comité des Ministres et de promouvoir la pleine application de l'article 13 de la Convention pour la prévention du terrorisme.



Il est capital de renforcer la coopération internationale en vue de mieux partager les informations entre les services nationaux d'indemnisation, d'éviter les cas de double indemnisation, de coordonner l'assistance et de partager les bonnes pratiques, les expériences et l'expertise de chacun.

La recommandation devrait également inviter le Comité des Ministres à accélérer ses travaux pour la création d'un réseau de points de contact uniques pour l'échange d'informations procédurales concernant le statut juridique des victimes du terrorisme dans les juridictions des États membres, ainsi que dans les autres États concernés.

A la suite de l'adoption de ce rapport, l'Assemblée parlementaire va donc pouvoir se joindre aux efforts de votre Comité en demandant aux gouvernements des pays membres d'aller au-delà de la simple affirmation de leur solidarité et de mettre en place des mesures concrètes de protection des droits fondamentaux des victimes.

Merci de votre attention.

## **Mr Linos-Alexandre SICILANOS**

*President of the European Court of Human Rights*

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Monsieur le Président,  
Monsieur l'Ambassadeur de France auprès du Conseil de l'Europe,  
Mesdames et Messieurs les membres du Comité,

Je tenais particulièrement à être présent parmi vous pour participer à cet atelier sur la protection des victimes d'actes terroristes et c'est avec enthousiasme que j'ai immédiatement répondu présent à votre invitation. Cela entre d'ailleurs dans ma démarche de rencontre avec les différents comités du Conseil de l'Europe et rien de ce qui se passe sous l'égide du CDDH ne laisse la Cour indifférente.

Les questions liées au terrorisme sont absolument fondamentales et figurent parmi les défis les plus importants auxquels notre Cour est confrontée. Le Conseil de l'Europe et la Cour européenne des droits de l'homme se sont très tôt penchés sur ce sujet.

Comme vous le savez tous ici, les premières lignes directrices sur les droits de l'homme et la lutte contre le terrorisme ont été adoptées, dès 2002, par le Comité des Ministres. Il s'agissait, déjà, de fixer les limites au-delà desquelles les États membres du Conseil de l'Europe ne devaient pas aller dans leur lutte contre ce fléau. Il était clair qu'aux yeux du Comité des Ministres, la Convention européenne des droits de l'homme et la jurisprudence de la Cour étaient les marqueurs qui indiquaient la voie à suivre sur ces questions très difficiles. Par la suite, des lignes directrices ont été adoptées puis révisées, en 2017 à Nicosie, qui s'attachent plus particulièrement à la protection des victimes. Un thème essentiel à nos yeux et dont vous débattiez ici.

D'emblée, les principes posés par ces différents textes furent clairs : il fallait défendre les institutions et la démocratie que le terrorisme essaye de saper, tout en protégeant les droits des individus, comme le garantit la Convention.

La Cour, je le disais, a été, elle aussi, très tôt confrontée au phénomène du terrorisme, puisque la toute première affaire qu'elle a été amenée à juger, le 1er juillet 1961, *Lawless (no 3) c. Irlande*, était déjà une affaire de terrorisme (elle concernait l'IRA). Depuis cet arrêt très ancien, notre jurisprudence s'est enrichie considérablement, au fur et à mesure que la menace terroriste devenait plus forte et, surtout, malheureusement, avec la multiplication des attentats.

Cette jurisprudence, je n'ai pas l'intention de la présenter devant vous de manière exhaustive, car elle fera l'objet d'une intervention détaillée de la part de mon ami et ancien collègue Ledi Bianku, qui est un expert en la matière. Je voudrais simplement, au travers de quelques exemples, rappeler quels sont les principes qui la guident depuis maintenant près de 60 ans.

Que la lutte contre le terrorisme soit l'un des défis majeurs du 21<sup>ème</sup> siècle, personne ne peut en douter et, pour la Cour, il ne s'agit pas de choisir entre liberté et sécurité. Ces deux valeurs peuvent parfaitement coexister dans une société démocratique. Nous sommes évidemment conscients des difficultés que rencontrent les États dans leur lutte contre cette menace devenue quasi-permanente. La Cour ne saurait être rangée dans le camp de ceux qui s'opposent à la lutte contre le terrorisme, comme certains tentent, parfois, de le laisser croire. Mais il convient de ne pas tomber dans le piège que les terroristes nous tendent et, sous couvert de lutter contre eux, adopter des mesures qui, en réalité, affaibliraient considérablement nos démocraties. En effet, cette lutte indispensable trouve ses limites dans l'obligation faite aux États de respecter les droits et les libertés garantis par la Convention. Que ces droits et ces libertés connaissent des restrictions, nul ici ne le contestera. Mais il faut impérativement que les limites connaissent elle-même des limites. D'abord, il est essentiel de rappeler que certains droits contenus dans la Convention européenne des droits de l'homme sont absolus et ne souffrent aucune restriction. Cela s'applique même en cas d'application de la dérogation prévue par l'article 15 de la Convention, c'est-à-dire en cas d'état d'urgence, sujet que je n'aborderai pas dans mon exposé, mais que vous discuterez peut-être dans le cadre de vos travaux.

La Convention européenne des droits de l'homme reconnaît en effet à certains droits un caractère absolu en ce qu'ils ne sauraient faire l'objet de restrictions, fût-ce au service d'un objectif légitime et dans le respect du principe de proportionnalité.

Comme la Cour l'a clairement indiqué : « Même dans les circonstances les plus difficiles, telle la lutte contre le terrorisme..., la Convention prohibe en termes absolus la torture et les peines ou traitements inhumains ou dégradants » et elle ajoute que « la nature de l'infraction est dépourvue de pertinence pour l'examen sous l'angle de l'article 3 ». Cette formule, utilisée il y a fort longtemps dans l'arrêt *Irlande c. Royaume-Uni* du 18 janvier 1978, a le mérite de la clarté. À cet égard, on ne saurait reprocher à la Cour d'être ambiguë : comme elle le dit dans plusieurs arrêts, « les nécessités de l'enquête et les indéniables difficultés de la lutte contre la criminalité, notamment en matière de

terrorisme, ne sauraient conduire à limiter la protection due à l'intégrité physique de la personne ». En définitive, les articles 2 et 3 de la Convention offrent à l'individu une garantie absolue.

Cette garantie absolue, la Cour l'a réaffirmée avec force dans un certain nombre d'affaires où, précisément, la personne concernée était un terroriste. Ces décisions ne nous ont pas forcément rendu populaires, mais elles s'imposaient car notre Cour ne peut se renier sur ce qui constitue ses fondamentaux. Je pourrais citer l'exemple de l'emprisonnement à vie incompressible, déclaré contraire à l'article 3 de la Convention, à l'occasion de l'affaire *Vinter c. Royaume-Uni* qui concernait précisément un terroriste. C'est aussi à l'occasion d'affaires impliquant des terroristes que la Cour a condamné les détentions à durée indéterminée de ressortissants étrangers impliqués dans des activités terroristes. Vous connaissez certainement les affaires dites des prisons secrètes de la CIA dans lesquelles la Cour a rappelé que la détention secrète était totalement incompatible avec l'État de droit. Dans le même esprit, dans plusieurs affaires françaises concernant des détenus accusés d'appartenir à l'organisation terroriste ETA, la Cour a constaté la violation de la Convention en raison de la durée excessive de la détention provisoire.

Nous ne sommes pas ici sur le terrain des droits absolus, que j'évoquais il y a un instant. Il n'empêche : les périodes très longues de détention provisoire dans ces affaires (autour de 5 années) n'étaient pas compatibles avec les exigences de la Convention, fût-ce pour des terroristes. On retrouve cette même exigence dans l'affaire *Heaney et McGuinness c. Irlande* dans laquelle les accusés de terrorisme invoquaient le droit de garder le silence et la présomption d'innocence. Dans cette affaire, également, la Cour parvint à un constat de violation de la Convention.

Les arrestations et placement en détention sont autorisés en cas d'infraction pénale ou de risque de commission d'une infraction. Il faut, toutefois, que les autorités disposent de soupçons « plausibles » et le gouvernement défendeur doit fournir à la Cour les renseignements nécessaires afin d'étayer ces soupçons.

Ainsi, dans les affaires *Murray c. Royaume-Uni* (1994) et *O'Hara c. Royaume-Uni* (2001), la Cour a considéré que l'arrestation des requérants, soupçonnés d'infractions terroristes, s'inscrivait dans le cadre d'opérations programmées et fondées sur des éléments de preuve ou des renseignements relatifs à des activités terroristes et avait satisfait au critère de l'existence de « soupçons sincères fondés sur des motifs plausibles ».

Le recours à la force létale est parfois inévitable face à la détermination de la menace terroriste. La Cour a toujours eu une approche très pragmatique sur cette question en regardant au cas par cas si l'usage de la force pouvait être évité et si les moyens utilisés étaient proportionnels à la menace. Dans son célèbre arrêt *McCann et autres c. Royaume-Uni* (1995), la Cour s'est penchée sur la mort de trois militants de l'IRA, abattus sans sommation par les forces de sécurité britanniques à Gibraltar.

Selon la Cour, on ne pouvait pas reprocher aux militaires d'avoir ouvert le feu sans sommation mais l'opération avait été mal planifiée, engageant ainsi la responsabilité de l'État sous l'angle de l'article 2 de la Convention pour des tirs mortels qui n'étaient pas justifiés au regard de la réalité de la menace.

La Cour laisse aux États une certaine liberté de choix dans les moyens employés. On peut citer l'arrêt *Finogenov et autres c. Russie* (2011), qui concernait la prise d'otage du théâtre de la Dubrovka, à Moscou où la Cour a admis que l'utilisation d'un gaz spécial afin d'endormir les terroristes et permettre la libération des otages par les forces spéciales n'était pas une mesure disproportionnée.

La Cour admet également que le terrorisme autorise des exceptions à sa jurisprudence. Je pense au droit à l'avocat pendant la garde à vue. Depuis l'arrêt *Salduz c. Turquie* (2008), la Cour considère qu'une personne arrêtée, doit pouvoir bénéficier de l'assistance d'un avocat dès le début de sa garde à vue. Or, il existe une exception liée au terrorisme: dans un arrêt récent *Ibrahim et autres c. Royaume-Uni* (2016), concernant l'arrestation de quatre personnes suspectées d'avoir participé à des attentats, la Grande Chambre de la Cour a conclu que le risque d'autres attentats constituait une menace exceptionnellement grave et imminente pour la sûreté publique et que cette menace donnait lieu à des raisons impérieuses justifiant de retarder provisoirement l'accès des requérants à l'assistance d'un avocat.

Par ailleurs, vous le savez, plusieurs dispositions de la Convention prévoient la possibilité de certaines restrictions. Ce sont les dispositions importantes qui figurent aux articles 8 à 11 et pour lesquelles la Cour a pu reconnaître les spécificités de la lutte contre le terrorisme.

A titre liminaire, il est important de rappeler que la lutte contre le terrorisme est toujours considérée par la Cour comme un but légitime au sens du paragraphe 2 des articles 8 à 11 de la Convention, car elle relève à la fois de la défense de la sécurité nationale et de la préservation de l'ordre public.

C'est le cas, par exemple, des mesures de surveillance, notamment secrètes, qui peuvent poser un problème sous l'angle de l'article 8 de la Convention, lequel protège le droit au respect de la vie privée et familiale, du domicile et de la correspondance. Son paragraphe 2 prévoit la possibilité pour les États de restreindre ce droit, notamment en ce qui concerne la défense de la sécurité nationale et la préservation de l'ordre public. Je pourrais citer les affaires *Klass et autres c. Allemagne* (1978) et *Weber et Saravia c. Allemagne* (2006), à l'occasion desquelles la Cour s'est penchée sur la législation allemande encadrant la surveillance stratégique des communications par les services de renseignement. Elle a considéré, d'une part, que cette législation visait un but légitime, notamment la lutte contre le terrorisme, d'autre part, que cette loi prévoyait des garanties suffisantes contre les risques d'arbitraire et, par conséquent, ne violait pas la Convention.

La Cour a fait alors le constat que : « les sociétés démocratiques se trouvent menacées de nos jours par des formes très complexes d'espionnage et par le terrorisme, de sorte que l'Etat doit être capable, pour combattre efficacement ces menaces, de surveiller en secret des éléments subversifs opérant sur son territoire. La Cour doit donc admettre que l'existence de dispositions législatives accordant des pouvoirs de surveillance discrète de la correspondance, des envois postaux et des télécommunications est, devant une situation exceptionnelle, nécessaire dans une société démocratique ». En concluant à l'absence de violation de la Convention, la Cour trace clairement une voie, certes étroite, mais qui permet de concilier les impératifs de la défense des intérêts démocratiques et ceux de la défense des droits individuels.

Dans ce type d'affaires, la Cour est très attentive à la qualité des mesures de contrôle qui sont instituées au niveau national afin de prévenir les abus possibles du système. Les garanties accordées aux individus sont absolument essentielles. Toutefois, la Cour est consciente que la lutte contre le terrorisme passe par la collecte d'un grand nombre d'informations et de renseignements et que si l'on veut prévenir les attentats terroristes, il est nécessaire d'agir le plus rapidement possible et à cet effet, des restrictions au droit à la vie privée sont parfois indispensables.

Autre domaine dans lequel des restrictions sont parfois acceptées dans le cadre de la lutte contre le terrorisme, est celui du droit à la liberté d'expression. Je pourrais citer le cas du discours de haine ou de l'apologie du terrorisme. Ainsi dans l'affaire *Leroy c. France* (2008), dans laquelle le requérant, dessinateur, avait publié, deux jours après les attaques du 11 septembre 2001, un dessin dans un hebdomadaire

montrant des avions qui percutaient des tours. Le dessin comportait la mention suivante : « *Nous en avions tous rêvé, le Hamas l'a fait !* » Il avait été condamné pour apologie du terrorisme. La Cour a considéré que, dans le contexte particulier de l'affaire, la condamnation du requérant n'avait pas violé l'article 10, qui protège la liberté d'expression et la liberté de la presse.

La Cour, comme on le sait, garantit le droit à la liberté d'association. Il existe toutefois, des exceptions liées au terrorisme : dans l'arrêt *Herri Batasuna et Batasuna c. Espagne* (2009), la Cour a considéré que la dissolution en Espagne de partis politiques liés à l'ETA et qui soutenaient explicitement le recours à la violence répondait à un « besoin social impérieux ».

Pour la Cour de Strasbourg, il importe donc de veiller constamment à maintenir un équilibre très délicat entre le fait de laisser aux États une marge d'appréciation dans leur lutte indispensable contre le terrorisme, sans sacrifier pour autant ce qui fonde nos sociétés démocratiques. Le danger est évidemment que le terrorisme conduise les États à adopter des mesures qui sacrifieraient nos valeurs démocratiques. L'action des États doit se faire dans le respect des valeurs et des principes qui sont les nôtres depuis près de 60 ans.

À cela s'ajoute le fait que l'un des articles les plus essentiels de la Convention est l'article 2 qui protège le droit à la vie. Un principe fondamental figure au cœur de la Convention : les États ont l'obligation de protéger leur population. Cette protection des victimes du terrorisme, c'est précisément ce dont nous parlons aujourd'hui. Là non plus, je ne m'attarderai pas sur la jurisprudence qui va vous être exposée en détail, mais la Cour a, depuis longtemps, admis que les articles 2 et 3 prévoient, à la charge des États, des obligations positives de protéger la vie et l'intégrité des personnes se trouvant dans leur juridiction.

Un seul exemple, cependant, dans lequel la Cour a été amenée à préciser l'étendue de ses obligations positives en matière de terrorisme : l'affaire *Tagayeva et autres c. Russie* (13 avril 2017)<sup>2</sup>. Cette affaire concernait la prise d'otages de l'école de Beslan en 2004. L'une des questions soulevées par les requérants portait sur l'absence de mesures de prévention malgré le fait que les services de renseignements étaient informés du risque d'attaques terroristes et de la présence de terroristes dans la zone. Dans son arrêt, la Cour a conclu à une violation de l'article 2, car les autorités, bien qu'informées plusieurs jours à l'avance de la

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<sup>2</sup> *Tagayeva et autres c. Russie*, nos 26562/07 et autres, § 482.

possibilité d'une attaque terroriste, n'avaient pas pris des mesures de prévention adéquates<sup>3</sup>.

En particulier, il n'y avait pas une structure en mesure d'évaluer les risques, de décider de l'utilisation des moyens et de coordonner l'ensemble des opérations<sup>4</sup>.

Un point important que je m'en voudrais d'oublier est la délicate question du renvoi des terroristes vers leur pays d'origine. Comme vous le savez, l'article 39 du Règlement de la Cour est souvent utilisé en l'espèce. Cette disposition permet à la Cour d'empêcher toute extradition ou expulsion vers un pays où le requérant risquerait des traitements contraires à l'article 3. La Cour suit une approche très pragmatique et base ses décisions sur les éléments concrets fournis par les parties. Deux exemples en matière de terrorisme : les autorités allemandes avaient ordonné le renvoi en Russie d'une personne soupçonnée de vouloir prendre part à un attentat terroriste et qui était donc considérée comme une menace pour la sécurité nationale. Par la suite, la Cour administrative fédérale et la Cour constitutionnelle fédérale ont rejeté les demandes de mesures provisoires par lesquelles il souhaitait faire surseoir à son expulsion.

Il s'est tourné vers notre Cour qui a adopté une mesure provisoire par laquelle elle indiquait au gouvernement allemand qu'il devait s'abstenir d'expulser l'intéressé jusqu'à ce que des informations complémentaires soient fournies. Puis, au vu des éléments factuels présentés par le gouvernement allemand, la Cour a levé la mesure provisoire interdisant à l'Allemagne de le renvoyer vers la Russie<sup>5</sup>.

Dans le sens inverse, nous avons l'arrêt *Othman (Abu Qatada) c. Royaume-Uni* du 17 janvier 2012. Dans cette affaire, la Cour s'est opposée à ce que le requérant soit expulsé en Jordanie en raison du risque d'utilisation de preuves obtenues par la torture dans la procédure pénale à son encontre dans ce pays<sup>6</sup>. Volontairement retourné en Jordanie à la suite de l'entrée en vigueur d'un traité d'assistance judiciaire mutuelle entre le Royaume-Uni et la Jordanie, destiné à éliminer le risque d'utilisation de preuves obtenues par la torture dans des procédures pénales à l'encontre de personnes renvoyées du Royaume-Uni vers la Jordanie, il a été jugé par les juridictions jordaniennes, et relaxé en septembre 2014.

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<sup>3</sup> Ibid., § 491.

<sup>4</sup> Ibid.

<sup>5</sup> Requête n° 54646/17 X. c. Allemagne, actuellement pendante devant la Cour.

<sup>6</sup> *Othman (Abu Qatada) c. Royaume-Uni*, n° 8139/09, §§ 285 et 287.



On pourrait multiplier les exemples d'affaires liées au terrorisme qui ont permis à la Cour de marquer des avancées jurisprudentielles dans les domaines aussi essentiels que la surveillance secrète, les fouilles corporelles, la restitution des corps des terroristes tués par les forces de l'ordre, la dissolution des partis politiques etc... En définitive, notre jurisprudence me semble prudente et équilibrée : nous avons su faire preuve de compréhension face aux difficultés, parfois extrêmes, de la lutte contre le terrorisme, sans trahir nos principes et nos valeurs. Ce qui fait que, depuis 60 ans, nous faisons progresser les droits fondamentaux en Europe.

Je vous remercie.

## WORKING SESSION I

### The revised Guidelines of the Committee of Ministers on the protection of victims of terrorist acts

#### **Mr CHANAKA WICKREMASINGHE**

*CDDH Representative before the Council of Europe Committee on Counter-Terrorism (CDCT)*

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It is a great honour for me to join such a distinguished array of speakers, and I am very grateful to the organisers for the invitation to do so. I have been asked to say a few, rather descriptive, words about the content of the Guidelines by way of aide memoire. Many of you will be very familiar with them as perhaps they are the key document of the Council of Europe on our subject matter, so I can speak rather shortly.

The Revised Guidelines were adopted by the Committee of Ministers of the Council of Europe in 2017, only 12 years after the adoption of the initial guidelines, as a response to all forms of terrorism. They are a practical tool to enable member States to address the challenges of all forms of terrorism and move towards better protection of human rights.

They seek to set out a broad framework of 14 principles drawing on a range of instruments developed in the fields of the fight against terrorism, the protection of victims of crime and the protection of human rights. The principles are quite broadly stated, and therefore they are accompanied by a Background Paper (not an explanatory memorandum, as for recommendations) which seeks to assist States in applying the Guidelines by explaining the underlying thinking and providing examples of their practical application. It is also worth reading the UNODC document on Good Practices in Supporting the Victims of terrorism within the Criminal Justice Framework, as there has clearly been some very positive cross-fertilisation of ideas in respect of the two documents. Our colleague from the UNODC Ms Hiensch will certainly give more information on this document.

For the main part, the Guidelines sensibly avoid formal definitions of their terms – the first Guideline sets out the overall objective of the document as being to support and protect the fundamental rights of victims. We all know that defining is a very difficult and rather thankless task in the sensitive area of terrorism, but the Guidelines contain an appropriately

broad definition of the victims of terrorist acts as “... any person who has suffered direct physical or psychological harm as a result of an act of terrorism and, in appropriate circumstances, of their close relatives.”

The Guidelines stipulate that States should have an appropriate legal and administrative framework for the provision of relevant services and assistance to victims of terrorist acts, which (a) excludes arbitrariness or discrimination, and (b) protects the dignity and private and family life of victims. It is clear that States should be aiming for all of the relevant stakeholders in the Government’s crisis response to be able to coordinate their activities and share relevant information. You will hear more about this need to co-ordinate and co-operate in the next session: we need a multidisciplinary response across the various different organs and levels of Government which have responsibilities in this respect (central, regional and local level). Networks need to be created for the provision of services, and sharing information, and staff should have a specialist training to ensure that victims’ needs are appropriately addressed.

Victims are likely to have immediate needs including medical, psychological, social and material. The Guidelines provide that assistance should be provided on an emergency basis free of charge, as well as the longer-term assistance with the aim of allowing victims to resume, as far as possible, the activities and lives they enjoyed before the terrorist act.

I know that we are not all lawyers here - and luckily so - but those who are will note the emphasis that relevant Government agencies should provide information to victims, including on the investigation and prosecution of terrorist crimes. The provisions suggest a presumption in favour of sharing information with the victims about the terrorist act which was the cause of their suffering, unless victims ask that information should not be shared. The Guidelines also provide that States should establish contact points who can assist victims in reaching bodies who can provide support as well as the possibility for assistance by way of practical and/or legal advice.

When it comes to the investigation and prosecution of terrorist crimes by law enforcement authorities, the Guidelines contain a number of provisions which call for a “victim-centred approach”. As well underlining the obligation of States – derived in some cases from the European Convention on Human Rights - to investigate and prosecute terrorist crimes in a timely way, the Guidelines stress that special attention be paid in investigations to the victims (without it being necessary for them to have made a formal complaint). Investigators should be given victim-

sensitive training on the needs of victims. States are encouraged to ensure that the position of victims is adequately recognised in the course of criminal proceedings. Where it is decided that a prosecution should not be pursued against a suspect, States should ensure that victims have the right to seek a review of that decision.

Turning to civil proceedings, the Guidelines emphasise the obligations of States to ensure the right of victims to have access to competent courts for the purpose of pursuing civil remedies – which may include the provision of legal assistance and interpretation.

Separately, the Guidelines provide that victims should receive fair, appropriate and timely compensation for the loss and damage that they have suffered. Where compensation from the perpetrators, organisers or sponsors of terrorist acts is not possible, the State on whose territory the terrorist act took place is urged to contribute compensation for direct physical and psychological harm suffered by the victims. The importance of ensuring that compensation is easily accessible (including through simple processes) is underscored. Very importantly, non-discrimination on grounds of nationality is made very clear.

In terms of the protection of victims, the Guidelines encourage States to take steps to ensure that the private and family life of victims is fully respected throughout the investigative and legal proceedings. States should encourage the media and journalists to adopt measure of self-regulation to ensure that the private and family life of victims is protected. States must enable victims to pursue an effective remedy where they have an arguable claim that their right to respect for private and family life has been violated.

Finally, I would like to draw attention to Guidelines XII and XIII, which respectively concern aspects of raising public awareness and including victims in doing so, and an encouragement of States to co-operate with civil society in the protection of victims. The role of the civil society has to be particularly underlined, as such organisations could provide a number of long-term assistance measures.

So, this is where I would stop. You will hear from other speakers how the Council of Europe member states are implementing the Guidelines, some two years after their adoption. It is important to conclude that our Guidelines do not offer only the security point of view in dealing with terrorism and its consequences, but a multilateral approach.

Thank you for your attention.

## **Mr Mario JANEČEK**

*President of the Council of Europe Committee on Counter-Terrorism (CDCT)*

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Mr President of the CDDH,  
Excellences,  
Ladies and Gentlemen,

Terrorism sadly remains a serious threat to democracy and the peaceful enjoyment of human rights, and terrorist attacks severely undermine the rule of law. Accordingly, there are sound reasons for the Council of Europe to be active in the countering of terrorism, which the Organisation has indeed done since the 1970s.

I am therefore also grateful for the invitation to speak at this important Workshop of the CDDH on the protection of victims of terrorist acts.

Like the CDDH, the Council of Europe Committee on Counterterrorism (CDCT) is a steering committee reporting to the Committee of Ministers. The CDCT is tasked with coordinating the Council of Europe's activities and policies in the field of prevention and suppression of terrorism – touching on a plethora of issues ranging from preventing radicalisation in society over criminal law measures to police cooperation.

In our work, we are guided by two major principles:

**Firstly**, we need to emphasise that terrorism – though as grave a threat to public security as it is – is primarily a serious crime, and should, insofar as possible, be treated just like any other form of serious crime as regards police detection and criminal prosecution. This means essentially that the measures applied by the competent authorities to demonstrate the guilt of someone accused of being a terrorist, and the manner in which he/she is prosecuted and eventually judged, should not differ noticeably in terrorist cases from those applied to other categories of serious crime. Though this approach may, at first glance, seem to downplay the seriousness of terrorism as a crime, it has the distinct advantage of depriving the terrorist of any “glamour” that may be attached to being a “soldier” or “fighting for a cause”. The terrorist should be seen for what he/she is: a criminal. It also sends the clear signal to society, that we do not need to turn into a police state in order to efficiently prevent and suppress terrorism. The police and the judiciary, as a rule, already possess the tools and procedures necessary in a democratic society to deal with this threat and bring terrorists to justice.

**Secondly**, the horror of terrorism and the need to show decisive leadership in crisis situations should not mislead us to take actions and measures which are not lawful or proportionate to the threat we face. Draconian legislation often defeats its own purpose by playing into the hands of terrorist propagandists and apologists. Unlawful measures inevitably backfire on those societies which implement them. Only by staying true to the values upon which democracy is based – the respect of the rule of law, of the independence of the courts, of the procedures of democracy and of the rights of the individual – do we have a real chance of overcoming terrorism, whatever the ideology.

The current threat to Europe posed by Al-Qaida, Daesh and similar or affiliated groups, necessitates that a certain focus is kept on the persons often referred to as “foreign terrorist fighters”, as well as other sympathisers with these groups in Europe. But at the same time, we must never forget that terrorism is a method – not an ideology – and this method is (and has always been) used by individuals and groups of extremists of all political and ideological hues. Therefore, we must always remain vigilant and ready to address new terrorist threats, as and when they appear.

To aid us in this regard, the Committee of Ministers last year approved a new counter-terrorism strategy for the Council of Europe for 2018 – 2022. This strategy outlines a series of initiatives to be undertaken by the member States of the Council of Europe centered on the three pillars of “prevention”, “prosecution” and “protection”. The strategy is publicly available on the website of the CDCT and I invite you to consult it. The implementation of some of the activities contained in the strategy certainly requires the active involvement of other steering committees, including the CDDH.

One important aspect of being able to counter terrorism efficiently – and also to be able to assist victims of terrorism – is to have a clear understanding of what is meant by the term terrorism. Despite many years of negotiations, it has proven difficult to reach agreement on a global legal definition of terrorism. This poses challenges to the vital international cooperation against terrorism at the global and regional levels. To contribute to the efforts of addressing this concern and providing a clear legal definition of the criminal offences that can be considered as “terrorism”, the CDCT has been tasked by the Committee of Ministers to examine the feasibility of elaborating a regional, pan-European, legal definition of terrorism. This task is very demanding, but I am happy to inform you that the work is well under way, and that the

CDCT will initiate discussions on this topic at its next plenary meeting in November on the basis of a report drawn up by experts of member States.

The situation of victims of terrorism is another priority for the Council of Europe's work. Whereas victims of terrorism may be less at risk of re-victimisation than victims of other forms of crime, they have special needs which must be addressed. This applies in particular to the situation, where a victim cannot obtain financial compensation from the perpetrators, organisers and sponsors of terrorist acts. Let me here point to Rule XVII (Compensation for victims of terrorist acts) of the Council of Europe Guidelines on "Human rights and the fight against terrorism" (2002), which states that *"[w]hen compensation is not fully available from other sources, in particular through the confiscation of the property of the perpetrators, organisers and sponsors of terrorist acts, the State must contribute to the compensation of the victims of attacks that took place on its territory, as far as their person or their health is concerned."*

Even though not required by the Convention on Prevention of Terrorism, many member States have made provision for the application of their compensation and support schemes for victims to victims of terrorist acts perpetrated outside of their territories. Although doing so may in some cases give rise to certain concerns of a legal and financial character, the message of solidarity with the victims of terrorism is paramount. The counter-terrorism strategy also contains an activity (Activity 3.3) on victims of terrorism, dealing with exactly this problem. It is foreseen that the CDCT, the CDDH and the CDPC shall work together on this activity – something which I look forward to.

This has sadly become increasingly prevalent against the background of repeated terrorist attacks on soft targets such as holiday resorts both in- and outside of Europe. The recent tragic attacks in Sri Lanka targeting hotels and holiday resorts are a sad example. In order to better enable governments to provide timely and useful advice to their citizens, in case they become victims of terrorism abroad, the CDCT has in May 2019 decided to establish a network of contact points for the exchange of information concerning national laws on the compensation of victims of terrorism, the relevant legal procedures and, where applicable, the standing of victims in criminal trials. This network is currently being set up and is expected to become operational by 1 November 2019. The intention is to allow for relevant and interested non-member states to also join the network in order to add a truly global dimension to this important practical measure.

Excellences, ladies and gentlemen;

I thank you for the possibility to present to you today some aspects of the work of the CDCT, including on victims of terrorism. It is important that we approach the prevention of terrorism from a multi-sectorial angle, drawing on many different types of expertise. I see this workshop as an excellent example of how this can be achieved.

Thank you for your attention.



## **Mr Ledi BIANKU**

*Former judge of the European Court of Human Rights*

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Monsieur le Président,  
Monsieur l'Ambassadeur de France auprès du Conseil de l'Europe,  
Mesdames et Messieurs les membres du Comité,  
Chers collègues,

Permettez-moi de commencer par mes remerciements envers les organisateurs de cet atelier, en premier lieu la Présidence française du Comité de Ministres, pour l'idée et l'organisation de cette activité fort intéressante portant sur un sujet tant délicat que captivant. Je vous remercie de m'avoir invité pour partager avec vous mes pensées sur ce sujet.

J'ai dit que le sujet choisi est délicat et captivant. Mais traiter cette question est aussi une exigence pour toute société, pour chaque État et en particulier pour les institutions de la protection des droits de l'homme. Je ne vais pas m'attarder, bien entendu, sur le rôle et les activités des autres organes du Conseil de l'Europe, qui ont des contributions remarquables dans ce domaine précis. Je me concentrerai seulement sur la jurisprudence de la Cour Européenne des Droits de l'Homme. La présence du Président Sicilianos dans cet atelier montre l'intérêt, et je peux dire aussi la préoccupation, de la Cour sur la question. Comme le Président Sicilianos vient de le mentionner, depuis l'arrêt *Lawless c. Irlande (no. 3)*<sup>7</sup>, les questions de terrorisme ont accompagné la Cour Européenne des Droits de l'Homme pratiquement depuis sa naissance jusqu'au aujourd'hui. Actuellement, il y a devant la Cour, même devant sa formation de la Grande Chambre, des affaires pendantes qui touchent directement les questions du terrorisme.

Le sujet est délicat, captivant et complexe parce que du point de vue juridique, mais aussi philosophique, sociétal et politique, il ne représente pas seulement un dilemme pour la Cour de Strasbourg – en effet il représente un trilemme. Je m'explique. Dans les affaires portées devant elle, la Cour doit, normalement, trancher entre les intérêts des individus prétendant à une ou plusieurs violations de droits de l'homme, d'un côté, et les intérêts des États, qui prétendent à la protection de la sécurité de la nation, de l'ordre public, des droits d'autrui, de la morale et des autres intérêts publics, de l'autre.

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<sup>7</sup> Voir *Lawless v. Ireland (No. 3)*, no. 332/57, 01/07/1961.

Or, dans les affaires du terrorisme, les intérêts en jeu peuvent être triples. **Primo**, les intérêts des États à protéger la sécurité, l'ordre public et les intérêts des autres. **Secundo**, les droits des personnes accusées des actes terroristes. **Tertio**, les intérêts et les droits des victimes des actes terroristes. Les intérêts de ces derniers peuvent entrer en jeu directement comme conséquences des actes terroristes, ou indirectement, comme conséquences des mesures entreprises par les États dans leur combat contre les actes terroristes.

La Cour a été et continue à être critiquée, surtout par une partie de la presse et certains mouvements politiques, pour la protection qu'elle offre aux présumés terroristes. À part être, de mon point de vue, des analyses non objectives, elles ne tiennent pas en compte de l'approche consolidée de la Cour en matière de terrorisme.

Depuis le célèbre arrêt *Chahal c. Royaume-Uni*<sup>8</sup>, qui concernait l'expulsion d'un terroriste présumé, la Cour a montré qu'elle était consciente du trilemme des intérêts que je viens de mentionner ci-dessus. Au paragraphe 79 de cet arrêt la Cour dit qu'elle :

*« ...est parfaitement consciente des énormes difficultés que rencontrent à notre époque les États pour protéger leur population de la violence terroriste. »*

Tout au long des années, elle a continué à montrer la même prudence, consciente des réalités auxquelles font de plus en plus face les sociétés partout dans le monde. Dans des arrêts plus récents de la Grande Chambre, *A. et autres c. Royaume-Uni*<sup>9</sup>, *Ibrahim et autres c. Royaume-Uni*<sup>10</sup>, elle confirme la même attitude en disant :

*« Dans sa jurisprudence constante, par exemple celle relative à l'article 3 de la Convention, la Cour s'est dite pleinement consciente des difficultés rencontrées par les États pour protéger leur population contre la violence terroriste... ».*

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<sup>8</sup> Voir *Chahal c. Royaume-Uni*, no. 22414/93 [GC], 15/11/199.

<sup>9</sup> Voir *A. et autres c. Royaume-Uni*, no. 3455/05, [GC], 19/02/2009.

<sup>10</sup> Voir *Ibrahim et autres c. Royaume-Uni*, nos. 50541/08, 50571/08, 50573/08, [GC], 13/09/2016.

Dans l'affaire *Tagayeva et autres c. Russie*<sup>11</sup> :

*“The Court has also fully acknowledged the difficulties faced by the Russian Federation in combating illegal militant groups in the North Caucasus who have recourse to the most audacious terrorist methods. It therefore understands the need to set up an efficient system capable of counteracting them and maintaining law and order in this much-suffering region.”*

La complexité du sujet réside aussi dans le vaste nombre d'articles de la Convention qui entrent en jeu. Il y entre en jeu le droit à la vie<sup>12</sup>, le droit de ne pas être soumis à la torture et traitements dégradants et inhumains<sup>13</sup>, le droit à la liberté et sûreté<sup>14</sup>, le procès équitable<sup>15</sup>, y compris le déni flagrant de justice<sup>16</sup>, le principe de « pas de peine sans loi », garanti par l'article 7, dans l'affaire *Del Río Prada c. Espagne*<sup>17</sup>, vie privée et familiale<sup>18</sup>, etc. En plus des articles qui protègent des droits substantiels, il y a aussi des articles de nature procédurale surtout l'article 15 qui concerne les dérogations en cas de guerre ou autres menaces pour la nation<sup>19</sup>, ou même des questions délicates de juridictions telles que dans le cas de l'affaire *Association Sos Attentats et De Boery c. France*<sup>20</sup>, radié du rôle par la Grande Chambre, et qui concernait l'attentat terroriste perpétré en 1989 contre un avion de la compagnie française UTA, et qui causa 170 victimes.

Au vu du trilemme que j'ai mentionné ci-dessus et de cette envergure des droits garantis par la Convention, qui entrent en jeu en cas des attaques terroristes, la Cour a élaboré les différentes caractéristiques des obligations qui incombent aux États sous la Convention. Je pourrais distinguer des obligations de caractère préventives (a), pendant la conduite des opérations (b), et par la suite des opérations (c).

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<sup>11</sup> Voir *Tagayeva and others c. Russie*, nos. 26562/07, 14755/08, 49339/08, 13/04/2017, § 497.

<sup>12</sup> Voir *McCann et autres c. Royaume-Uni*, no. 18984/91, [G.C.], 27/09/1995.

<sup>13</sup> Voir *Irlande c. Royaume-Uni*, no. 5310/71, Court (Plenary), 18/01/1978, *El-Masri c. l'Ex-République Yougoslave de Macédoine*, no. 39630/09, [G.C.] 13/12/2012, etc.

<sup>14</sup> Voir à partir du *Fox, Campbell et Hartley c. Royaume-Uni*, 12244/86 12245/86 12383/86, 30/08/1990 jusqu'au au *Öcalan c. Turquie*, 46221/99, [G.C.], 12/05/2005.

<sup>15</sup> Voir *Salduz c. Turquie*, 36391/02, [G.C.], 27/11/2008. Voir aussi *Ibrahim et autres c. Royaume-Uni*, susmentionné.

<sup>16</sup> Voir *Othman (Abu Qatada) c. Royaume-Uni*, no. 8139/09, [G.C.], 17/01/2012.)

<sup>17</sup> Voir *Del Río Prada c. Espagne*, no. 42750/09 [G.C.], 21/10/2013

<sup>18</sup> Voir *Sabanchiyeva et autres c. Russie*, no. 38450/05, 06/06/2013.

<sup>19</sup> Voir *Brannigan et McBride c. Royaume-Uni*, no. 14553/89 14554/89, Court (Plenary), 26/05/1993, *Aksoy c. Turquie*, no. 21987/93, 18/12/1996.

<sup>20</sup> Voir *Association Sos Attentats et De Boery c. France*, no. 76642/01, Déc. [G.C.], 04/10/2006.

### a) Préventif

La prévention des actes terroristes étant le meilleur moyen de protéger les droits garantis par la Convention, et en premier ordre le plus important, le droit à la vie, la Cour a dument identifié les obligations des États en ce qui concerne la prévention des actes terroristes, dans le but d'éviter toute victime à cause de tels actes. Il est bien connu dans la jurisprudence qu'il incombe aux États non pas seulement des obligations négatives sous la Convention, mais aussi des obligations positives. Telle est ainsi l'obligation de protéger la vie de quelqu'un qui se trouve menacée et les autorités sont, ou devraient être en connaissance de ce fait. C'est un principe établi par la Cour dans les arrêts *Osman c. Royaume-Uni*<sup>21</sup>, *Mastromateo c. Italie*<sup>22</sup>, etc... et qui est entièrement applicable, je peux dire même *a fortiori*, dans des affaires qui concernent le terrorisme. C'est dans ce but, je pense, que la Cour, dans le désormais célèbre arrêt *McCann et autres c. Royaume Uni*<sup>23</sup>, a clairement souligné au paragraphe 205 de l'arrêt :

*« La Cour se borne à constater que le danger encouru par la population de Gibraltar – souci au cœur de l'argumentation du Gouvernement en l'espèce - du fait que l'on n'a pas empêché les terroristes d'entrer sur ce territoire, doit passer pour l'emporter sur les conséquences éventuelles de l'insuffisance des preuves permettant de les arrêter et de les juger. À cet égard, soit les autorités savaient que la voiture ne contenait pas de bombe - hypothèse déjà écartée par la Cour (paragraphe 181 ci-dessus) - soit les responsables de l'opération ont fait un très mauvais calcul. En conséquence, les conditions étaient réunies pour qu'une fusillade fatale, compte tenu des évaluations des services de renseignements, soit du domaine du possible sinon du probable.*

*La décision de ne pas empêcher les terroristes d'entrer à Gibraltar est donc un facteur à prendre en compte sous ce rapport. »*

Dans cet arrêt, la Cour met fortement l'accent sur les préparations et l'organisation préalables des opérations anti-terroristes, pour empêcher des conséquences fatales.

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<sup>21</sup> Voir *Osman c. Royaume-Uni*, no. 23452/94 [G.C.], 28/10/1998.

<sup>22</sup> Voir *Mastromatteo c. Italie*, no. 37703/97 [G.C.], 24/10/2002.

<sup>23</sup> Précité § 205.

C'est pour cette même raison – la préparation et l'organisation préalable des opérations des forces de l'ordre – que la Cour a trouvé violation dans l'affaire *Finogenov et autres c. Russie*, du 20 décembre 2011<sup>24</sup>. Cette affaire concernait le siège, en octobre 2002, du théâtre moscovite *Dubrovka* par 40 séparatistes tchéchènes. Pendant trois jours, plus de 900 personnes furent retenues dans le théâtre sous la menace d'armes à feu et des bombes humaines et 125 personnes furent tuées.

La Cour a conclu à la violation de l'article 2 (droit à la vie) en raison de la mauvaise planification et mise en œuvre de l'opération de secours.

C'est aussi la situation dans l'affaire *Tagayeva et autres c. Russie*<sup>25</sup>, concernant l'attaque terroriste qui a eu lieu en septembre 2004, dans une école de Beslan, en Ossétie du Nord (Russie). Pendant plus de cinquante heures, des terroristes lourdement armés ont retenu captives plus de 1 000 personnes, dont la majorité étaient des enfants. Au cours de cette prise d'otages, des explosions, un incendie et une intervention armée ont fait plus de 330 morts (dont plus de 180 enfants) et plus de 750 blessés. Sous l'obligation de protéger la vie, la Cour a jugé que, au moins quelques jours avant les faits, les autorités disposaient de suffisamment d'informations précises sur un projet d'attaque terroriste dans la région, lié à la rentrée scolaire et semblable aux importantes prises d'otage qui avaient déjà été perpétrées par le passé par des séparatistes tchéchènes dans des lieux publics et qui avaient fait de nombreuses victimes. Face à une telle menace, dit la Cour, on pouvait raisonnablement attendre des autorités qu'elles prennent pour tous les établissements d'enseignement de la région des mesures de prévention et de protection et notamment un certain nombre de mesures de sécurité. Si elles ont bien pris certaines mesures de sécurité, de manière générale les mesures de prévention qu'elles ont prises en l'espèce étaient insuffisantes. Le dispositif de sécurité à l'école n'a pas été renforcé ; la police locale n'a pas pris des mesures suffisantes pour réduire les risques ; ni l'administration de l'école ni le public assistant à la cérémonie n'ont été avertis de la menace ; et aucune structure de niveau suffisamment élevé n'était responsable de la gestion de la situation. Les autorités ont donc manqué, selon la Cour, à prendre des mesures propres à prévenir ou réduire le risque connu, en violation de l'article 2.

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<sup>24</sup> Voir *Finogenov et autres c. Russie*, no. 18299/03 27311/03, 20/12/2011.

<sup>25</sup> Précité.

Dans l'arrêt *Ibrahim et autres*<sup>26</sup> qui concerne exactement une situation de 'ticking bomb', seulement quelques jours après les attentats du 7 juillet 2005 à Londres :

*« La Cour estime que le Gouvernement a démontré de façon convaincante, s'agissant des trois premiers requérants, l'existence d'un besoin urgent de prévenir des atteintes graves à la vie et à l'intégrité physique parmi la population. »*

On peut dire qu'il y a eu aussi de la compréhension dans l'approche de la Cour, dans les affaires d'expulsions/extraditions des terroristes présumées vers les États tiers.

Dans l'affaire *Abu Qatada c. Royaume-Uni*, précité, même si elle a décidé une violation de l'article 6 de la Convention en cas d'extradition du requérant vers la Jordanie, elle a clairement laissé comprendre qu'un nouveau mémorandum entre les deux États en cas d'extradition, pourrait prévoir des garanties additionnelles du point de vue de l'article 6. Tel a été effectivement le cas dans un deuxième moment.

Le récent arrêt *A.M. c. France*, du 29 avril 2019<sup>27</sup>, qui concernait le renvoi vers l'Algérie du requérant, un ressortissant algérien condamné en France en 2015 pour participation à des actes de terrorisme et interdit définitivement du territoire français, montre la même compréhension. Par une approche qui a été critiquée par la doctrine, la Cour a jugé que la situation générale en matière de traitement des personnes liées au terrorisme en Algérie n'empêchait pas, en soi, l'éloignement de l'intéressé.

### **b) En cours des opérations**

L'élément de la préparation et l'organisation préalable des opérations des forces de l'ordre dans des situations d'attaques terroristes m'amène vers le deuxième élément : celui de la conduite des opérations policières et militaires contre les attaques terroristes. Bien entendu, les deux sont strictement liées et les problèmes organisationnels peuvent se répercuter sur la conduite des opérations et sur des violations possibles des droits garantis par la Convention.

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<sup>26</sup> Précité.

<sup>27</sup> A.M. c. France, no. 12148/18, 29/04/2019.

Tel est le cas, par exemple, dans l'affaire susmentionnée, *Finogenov c. la Russie*. La Cour a conclu que la décision de mettre les terroristes hors d'état de nuire et de libérer les otages en diffusant un gaz ne violait pas l'article 2 (droit à la vie) de la Convention. Dans les circonstances, elle considéra que la décision de résoudre la crise des otages par le recours à la force et l'utilisation d'un gaz, n'était pas disproportionnée au but suivi et n'a pas violée l'article 2. En tous cas, elle met en garde les autorités russes en disant que même si le gaz n'a pas constitué une « force meurtrière » mais plutôt une « arme d'immobilisation non létale », il était dangereux et même potentiellement fatal pour une personne affaiblie. Il faut mentionner aussi que c'est l'importance du but poursuivi par les autorités, précisément le sauvetage des victimes de l'assaut, qui a décisivement influencé la conclusion de la Cour pour une non-violation sur ce point.

L'affaire *Tagayeva et autres c. Russie* offre un recueil des obligations qui incombent aux États en cas d'opérations armées contre des groupes terroristes, et surtout pendant la prise d'otages. Dans son arrêt du 13 avril 2017, la Cour a conclu, **premièrement**, que l'usage fait par les forces de sécurité de la force létale a contribué, dans une certaine mesure, à faire des victimes supplémentaires parmi les otages. Les requérants se sont appuyés sur plusieurs témoignages pour soutenir que les militaires avaient fait usage d'une force aveugle en direction du bâtiment où terroristes et otages se trouvaient ensemble, et les enquêteurs n'ont pas pleinement examiné ces allégations. Les enquêteurs ont manqué à établir les circonstances ayant entouré l'usage de la force létale et à examiner pleinement les allégations des requérants. La présence conjointe d'un faisceau d'indices non réfutés de l'usage d'armes frappant sans discernement, alors que les terroristes et les otages étaient ensemble, d'une part, et d'un manquement à établir correctement la cause des décès et les circonstances dans lesquelles les armes ont été utilisées, d'autre part, fait naître certaines présomptions.

**Deuxièmement**, la Cour dit que la législation applicable ne prévoyait pas les plus importants principes et restrictions en matière d'usage licite de la force dans les opérations antiterroristes. Pour cette raison la Russie avait manqué, selon la Cour, à mettre en place un cadre juridique effectif prévoyant des protections contre l'arbitraire et l'usage de la force. Couplée à l'immunité large pour tout dommage causé dans le cadre d'opérations antiterroristes, cette situation a eu pour résultat un vide dangereux dans les règles encadrant la gestion des situations potentiellement mortelles et a eu une incidence directe sur la conclusion de la Cour sur ce point.

Combinées au défaut de responsabilité et de coordination au centre de commandement, ces circonstances ont abouti à une situation où les décisions relatives à l'usage de la force ont été laissées aux personnes responsables de l'assaut. Cependant, il y a très peu d'éléments de preuve associés à l'explication qu'ont avancée ces personnes quant à l'usage qui a été fait de la force létale.

Au vu des informations disponibles sur l'usage d'armes frappant sans discernement, cette absence d'explication amène la Cour à conclure que le Gouvernement n'a pas avancé « [d']explication satisfaisante et convaincante » tendant à prouver que l'usage qui a été fait de la force létale ait été absolument nécessaire. Elle juge que, même si la décision de recourir à la force létale était justifiée compte tenu des circonstances, un usage aussi massif d'explosifs et d'armes frappant sans discernement ne peut être considéré comme absolument nécessaire, et emporte violation de l'article 2.

**Troisièmement**, il faut noter dans cette affaire l'importance que la Cour a donné à l'organisation et l'intervention des services médicaux dans ce genre de situations.

*"(...) the Court finds that the Russian authorities failed to take such feasible precautions, in particular because of the inability of the commanding structure of the operation to maintain clear lines of command and accountability, coordinate and communicate the important details relevant to the rescue operation to the key structures involved and plan in advance for the necessary equipment and logistics. This constitutes a breach of Article 2 of the Convention."*

En résumant, il ressort de l'analyse de la Cour que les États doivent prendre toutes les mesures législatives et réglementaires nécessaires sur l'utilisation des armes, et de quelles armes, dans des situations de ce genre. Des mesures concernant la préparation et l'entraînement des forces armées qui participent à ce genre d'intervention, et leur organisation, et aussi l'assistance médicale, psychologique et autres pour les victimes de ces actes, apparaissent comme des critères importants pour protéger la vie des victimes des actes terroristes.

### **c) *Post factum***

Il apparaît déjà, dans les rappels concernant les deux premiers éléments que je viens d'analyser brièvement, qu'il y a bien des obligations sur les États pour ce qui concerne la situation après les actes terroristes. Les trois éléments où l'on peut dire qu'il y a des obligations des États, dans



ce type d'analyse, sont en effet fortement liés. Et je vous expliquerai pourquoi dans un moment. Dans cette analyse, il faudrait distinguer encore deux composantes des obligations des États après les attentats terroristes. La première est l'investigation effective de toutes les circonstances pertinentes (lignes directrices VI et VII du Comité des Ministres), et le deuxième est l'indemnisation des victimes des actes terroristes. Permettez-moi de les analyser par le rappel des arrêts pertinents.

L'affaire *Armani Da Silva c. Royaume-Uni*<sup>28</sup>, concernait la mort d'un ressortissant brésilien, Jean Charles de Menezes, abattu par erreur par des policiers qui l'avaient pris pour un kamikaze. Les questions de fond, la préparation de l'opération et la force exercée pendant l'opération conduisant au décès du Jean Charles de Menezes, ayant été résolus au niveau interne, la Cour n'était saisie que sur la question procédurale, l'investigation et les poursuites contre les policiers qui avaient organisé et exécuté l'opération. Dans son arrêt du 30 mars 2016, la Grande Chambre décida qu'il n'y avait pas de violation de cet aspect procédural, même s'il y avait une chaîne d'erreurs dans l'organisation de l'opération. En tout cas, la Cour arriva à la conclusion que l'investigation conduite par les autorités britanniques était conforme à l'obligation procédurale de l'article 2. Pour être un peu plus précis dans l'analyse de l'approche de la Cour dans ce type d'affaire, permettez-moi de citer le paragraphe suivant de l'arrêt :

*« 1. À cet égard, il est particulièrement important de noter qu'il n'est jamais arrivé que la Cour constate qu'un individu estimant avoir agi en état de légitime défense croyait sincèrement que l'usage de la force était nécessaire, et qu'elle conclue ensuite à la violation de l'article 2 au motif que la conviction n'était pas considérée, pour de bonnes raisons, comme valable à l'époque. Au contraire, dans les affaires où la légitime défense était invoquée, elle n'a conclu à la violation de l'article 2 que lorsqu'elle a estimé que la conviction alléguée n'était pas honnête (voir, par exemple, Akhmadov et autres c. Russie, no 21586/02, § 101, 14 novembre 2008, et Suleymanova c. Russie, no 9191/06, § 85, 12 mai 2010) ou que l'intensité de la force employée était totalement disproportionnée (voir, par exemple, Gül, précité, §§ 82-83). »*

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<sup>28</sup> *Armani Da Silva c. Royaume-Uni*, 5878/08, [G.C.], 30/03/2016.

Une fois encore, le but poursuivi par les autorités – la protection de la population civile des nouveaux attentats – et les circonstances d'une extrême gravité et urgence suite aux attentats du 7 juillet 2005 à Londres, semblent être pris en compte de la part de la Cour comme un argument fondamental. La croyance sincère de la police britannique sur la nécessité de l'utilisation de la force, apparait comme un critère fondamental, vus les intérêts en jeu.

L'arrêt *Tagayeva*, susmentionné, nous montre que la Cour est particulièrement soucieuse en ce qui concerne l'investigation de toutes les circonstances avant, pendant et après une attaque terroriste.

*« 2. The Court concludes that there has been a breach of Article 2 of the Convention since the investigation was not capable of leading to a determination of whether the force used in the case was or was not justified in the circumstances, and, therefore, was not “effective” (see Hugh Jordan v. the United Kingdom, no. 24746/94, § 107, 4 May 2001). It also notes the failure to ensure a sufficient degree of public scrutiny by restricting the victims’ access to some of the key expert reports. The Court further remarks that other elements of the investigation have been put into question by the applicants: the multitude of co-existing findings relating to the causes of the first explosions; the effectiveness of the investigations into the actions of the O[peration] H[eadquarters], rescue and medical services; the issues related to the appointment and independence of the experts; and the restricted access to other documents in the case file. However, the Court does not need to examine these aspects of the proceedings separately, in view of the above conclusions.*

Cette attitude de la part de la Cour trouve son explication par la gravité de la situation et les droits de la Convention qui entrent en jeu. Seulement une investigation approfondie de tous les éléments pertinents permettrait d'identifier les responsabilités concrètes, dans la prévention, la réaction ou l'atténuation des effets des attaques terroristes. Seulement une investigation efficace permettrait aussi d'établir la nature des carences éventuelles des structures étatiques, et par conséquent, la compensation des victimes. Dans deux paragraphes de l'arrêt *Tagayeva*, 648 et 649, la Cour précise cette relation. À cause des carences dans l'investigation des circonstances de l'affaire, la Cour ne procède pas à l'octroi des dommages matériels aux requérants. Par contre, justement à cause de cette investigation défailante, elle a octroyé des dommages non-matériels à une longue liste de requérants.

## **Conclusion**

Mesdames, messieurs,

Comme le Président Sicilianos le précisait il y a 4 ans, la lutte contre le terrorisme est un des défis majeurs pour la protection des droits de l'homme en générale et pour la Cour de Strasbourg en particulier. Lord Bingham, dans son célèbre livre « Rule of Law »<sup>29</sup> a dédié un article entier à la question du terrorisme et son impact sur l'État de Droit et sur les droits fondamentaux. Ce défi demande une coopération entre toutes les institutions et tous les acteurs concernés par la protection des droits fondamentaux garantis par la Convention, en premier plan le droit à la vie des victimes des actes terroristes. Avec cette préoccupation à l'esprit, mais en tenant compte aussi de tout autre droit garanti par la Convention, la Cour a élaboré ces principes qui peuvent être très utiles et efficaces.

Je vous remercie.

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<sup>29</sup> "The Rule of Law" by Tom Bingham, published in 2011 by Allen Lane.

**Ms Annick HIENSCH**

*Liaison Officer, UN Office of Counter-Terrorism*

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Excellencies,  
Distinguished Delegates,

Thank you for the opportunity to intervene on behalf of the Under-Secretary General of the UN Office of Counter-Terrorism, Mr Vladimir Voronkov, in the session on revised Guidelines of the Committee of Ministers on the protection of victims of terrorist acts of the Council of Europe.

The United Nations has prioritised victims of terrorism even before the establishment of the United Nations Office of Counter-Terrorism in June 2017. The office was created to provide coordination and coherence to the UN system and ensure implementation of the UN Global Counter-Terrorism Strategy (GCTS) across its four pillars, namely: 1) addressing the conditions conducive to the spread of terrorism; 2) preventing and combatting terrorism; 3) building states' capacity and strengthening the role of the United Nations; and 4) ensuring human rights and the rule of law.

The protection of victims relates to both Pillar 2 and Pillar 4 of the Strategy with regards to the prevention of terrorism and human rights. Besides the fundamental imperative of ensuring that victims' rights are promoted and protected and their needs supported, that they have a voice and access to justice, victims also play an important role in efforts to prevent violent extremism conducive to terrorism and countering terrorism, and as such strategies, action plans and activities must be established through a victim-centric approach.

Besides the GCTS, two key General Assembly resolutions (72/165 and 73/305) are dedicated to victims, numerous Security Council resolutions, particularly 2467 (2019) and 2388 (2017) on victims of sexual violence and 2322 (2016) on solidarity and support also reference victims of terrorism. Two key milestones for victims is a big step forward in standing in solidarity with victims: the establishment of the International Day of Remembrance of and Tribute to the Victims of Terrorism (GA res. 72/165) and the launch of the Group of Friends of Victims of Terrorism (a group of like-minded member States who have prioritised victims on their agenda).

The new General Assembly resolution 73/305 on the Enhancement of International Cooperation to Assist Victims of Terrorism recognises specific rights and needs of victims, requests member states to develop national assistance plans, and ensures the prominence of victims at the national and international level.

With this recognition, the United Nations Counter-Terrorism Centre, located in the UNOCT, launched a global, multi-year programme for victims in 2018. The 2018-2021 Victims of Terrorism Support Programme is based within this strengthened normative framework that refers increasingly to victims of terrorism. The Programme seeks to advocate, outreach, shape policy, and build the capacity of member States, victims, victims associations and civil society organisations. In June 2014, UNCCT established the UN Victims of Terrorism Support Portal, a mechanism that provides practical resources and information on and for victims of terrorism.

The activities of the victims support programme includes: capacity building for victims; a documentary series; a handbook of good practices; support for the International Day, and increased resources for the Victims Support Portal – which includes as a resource the revised Guidelines of the Committee of Ministers on the protection of victims of terrorist acts of the Council of Europe that were presented here today.

UNCCT is also developing a new expanded programme for beyond this period.

UNOCT/UNCCT, under the leadership of Under-Secretary General Mr Voronkov, is organising the second UN Counter-Terrorism week in 2020 and will include the Global Congress of Victims of Terrorism, that will ensure that victims' voices are clearly heard, their rights are respected and their recovery and rehabilitation needs are addressed.

Thank you for your attention.

## **Mr Edo KORLJAN**

*CDDH Secretariat*

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Ladies and Gentlemen,  
Distinguished members of the CDDH and participants from the civil society sector,

Prior to this Workshop, the CDDH decided to send a questionnaire to the member states with a view to obtain good practices on the protection of victims of terrorist acts at national level.

Some 21 out of the 47 member States of the Council of Europe submitted a reply to the questionnaire. This number is high given that many states have luckily not been exposed to terrorism, and it is to be welcomed, as testifying of the member States' interest and involvement in the topic.

There is a large variety of both governmental and civil society mechanisms providing responses to terrorist acts. More importantly, there is lot of on-going work and projects in this area, be it draft laws on criminal procedure, or work currently underway in order to create a single-entry point for information of victims of terrorist acts.

### **Main good practices reported by the member States**

Victims of terrorist attacks are recognised with a particular legal status in four member States, and some of them have a specific definition of a "victim of terrorist act". These numbers are similar when it comes to recognition of relatives and dependents as victims of terrorist acts, when their relative died as a result of the act.

Fifteen member States indicated that free emergency medical and psychological assistance is provided to victims. However, medical, psychological, social and material support, which extended beyond immediate need, varied greatly.

With regards to the first point of contact for victims of terrorist acts in receiving specific information on their rights, one state established a Commissioner for the victims and bereaved of terrorist offences for this purpose. A variety of information services are available to victims, such as a telephone hotline; a "one-stop shop", information leaflets etc.

However, the long- or short-term nature and breadth of the medical, social and material assistance available as victims resume a normal life, varies considerably.

When it comes to access to financial aid and compensation across member States, several member States indicated that all victims of terrorist acts committed on their territories, would benefit from the same compensation and assistance as their own nationals, regardless of their nationality or place of residence.

A number of member States reported the existence of extensive and dedicated measures to investigate terrorist acts and provide victim-sensitive trainings, as well as the provision of victim-sensitive training on the needs of victims.

While most states reported having some form of compensation scheme for victims of terrorist acts, the majority did not report dedicated funding schemes for them, but rather their inclusion in broader compensation schemes. In this context, most states indicated that no specific fund for victims of terrorist acts exists, but that compensation for victims is instead financed through the general State budget. A number of states indicated that they would cover compensation payments, health and psychological costs, damages and other applicable payments for non-nationals and non-residents, under the same conditions as those received by their nationals.

All states propose protective measures for victims when they are witnesses, but also to protect the private and family life of individuals. The media must respect the confidentiality of the investigation and the non-disclosure of information on the private lives of victims. The journalistic ethics should be strengthened.

Majority of states have developed cooperation with non-governmental entities assisting victims of terrorism, by providing legal and psychological support for victims. These organisations are usually also involved when it comes to societal recognition and remembrance of victims of terrorist acts.

### **Concluding remarks**

As our questionnaire followed the text of the Guidelines and its principles, it would appear that more could be done to implement our Guidelines within the Council of Europe member states.

As already indicated, a number of member States are at present undergoing the legislative changes. Those states should benefit from the text of our Guidelines.

States which have unfortunately experienced terrorism, had a more developed system of assistance to victims. However, many states might decide to become more proactive in this area and to develop measures, protocols, systems of assistance.

Thank you for your attention.



## WORKING SESSION II

### Best practices in the protection of human rights of victims of terrorist acts

#### **Ms Elisabeth PELSEZ**

*Inter-ministerial Delegate for victims' support, France*

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Merci M. le Président.  
Bonjour à tous.

Je vous remercie de m'avoir associée à cet atelier que vous avez choisi de mener sur un sujet très important : la prise en charge des victimes, la protection des victimes de terrorisme. Je suis heureuse de pouvoir partager avec vous quelques éléments sur la manière dont cela se passe en France.

Comme l'a rappelé l'ambassadeur M. Mattei, la France a été durement touchée ces dernières années par des attentats qui ont fait de nombreuses victimes sur son sol. On pense bien-sûr aux attentats de 2015, de 2016 à Nice, aux attentats plus récents : Trèbes, Carcassonne, Strasbourg, Lyon. Mais je pense aussi aux nombreuses victimes françaises qui ont connu des attentats à l'étranger : depuis 2007, cinquante-neuf ressortissants français ont trouvé la mort dans cinquante attentats commis en-dehors du territoire français. En France, la prise en charge des victimes du terrorisme s'organise sous forme de trois piliers, dont je vais parler, qui rejoignent sur plusieurs points les Lignes directrices déjà citées à plusieurs reprises durant l'après-midi. Je développerai aussi l'aspect mémoriel, car nous devons rendre hommage aux victimes du terrorisme et toujours garder en mémoire ce qu'elles ont vécu – ce qui est également un autre point important des Lignes directrices.

Sur le premier point, la prise en charge des victimes d'actes terroristes en France, trois piliers sont à retenir.

Le premier est **la définition d'une politique au plan national comprenant des actions concrètes et la volonté de coordonner l'aide aux victimes au plan interministériel**. Ce n'est pas seulement le ministère de la Justice, auprès duquel la délégation interministérielle est

placée, qui doit s'investir sur cette question, mais aussi les ministères de l'Intérieur, des Affaires Étrangères, des Armées, de la Santé, des Finances. La prise en charge des victimes du terrorisme nécessite en particulier une implication coordonnée de plusieurs ministères.

Le deuxième pilier est la **déclinaison au plan territorial de cette politique nationale**, sur l'ensemble du territoire.

Le troisième pilier est constitué par **la volonté d'associer les associations d'aides aux victimes et les associations de victimes**, ce qui est tout à fait dans l'esprit des Lignes directrices déjà mentionnées.

Je citerai trois exemples pour illustrer comment ces trois éléments peuvent être combinés dans la prise en charge des victimes.

Le premier exemple concerne **la prise en charge du stress post-traumatique subi par les victimes**, qui est de plus en plus connu aujourd'hui et doit faire l'objet d'une attention accrue. Nous avons décidé de créer un **Centre National de Ressources et de Résilience**, lequel est chargé de collecter toute la recherche sur le stress post-traumatique, de former l'ensemble des personnes qui sont amenées à prendre en charge des victimes et de labelliser un certain nombre d'offres de soin qui ont fait leurs preuves pour la prise en charge des victimes. Ce Centre National de Ressources et de Résilience, confié à deux professeurs de médecine, a pu déjà collecter toute la recherche qui a été faite après les attentats de 2015 et les attentats de 2016 à Nice. Que ce soit les professeurs Peschanski, Eustache, ou le professeur Askenazy à Nice, beaucoup ont travaillé sur les questions du stress post-traumatique. Cette avance dans la recherche permet à ce Centre d'avoir déjà un matériel très intéressant pour l'avenir.

Parallèlement à ce Centre National de Ressources et de Résilience, **dix centres régionaux de soin** ont été mis en place sur l'ensemble du territoire pour accueillir les victimes souffrant de psycho-traumatisme, les prendre en charge et les accompagner sur le plan psychologique. L'intention est d'en créer encore d'autres.

Le Centre National de Ressources et de Résilience et les dix centres régionaux travaillent en réseau pour qu'il n'y ait pas de distinction entre la pratique clinique et la recherche. Ce centre va également développer un site grand public recensant, sous forme de cartographie, l'ensemble des offres de soin sur l'ensemble du territoire, pour une meilleure prise en charge des victimes.

Le deuxième exemple porte sur un élément très important dans la prise en charge des victimes : **le retour à l'emploi**. Nous nous sommes rendu compte que les victimes d'attentat avaient souvent le souhait de retourner vers un travail qui ait un sens pour elles, parfois différent de celui qu'elles avaient avant l'attentat, parfois de bénéficier d'une nouvelle formation. Nous avons pu conclure une convention entre la délégation interministérielle et Pôle Emploi, pour faire en sorte qu'il y ait dans chaque département un référent spécifique désigné pour accueillir les victimes du terrorisme. L'ensemble de ces référents territoriaux a été formé par France Victime, ce qui illustre parfaitement comment la politique publique peut être accompagnée par les associations d'aide aux victimes et de victimes.

Le dernier exemple est la mise en place, sur tout le territoire, d'instances qui permettent de suivre les victimes, d'une manière presque individualisée : **les comités locaux d'aide aux victimes**. Actuellement, quatre-vingt-onze comités locaux d'aide aux victimes sont installés. Ils travaillent sur la mise en œuvre des dispositifs de prise en charge des victimes d'une manière globale, mais aussi permettent de suivre le cas échéant des situations particulières. A plusieurs reprises, à la suite des différents attentats qui ont été commis en France, ces comités locaux se sont réunis. Concernant les attaques de Trèbes, Carcassonne, Strasbourg, Nice, nous avons eu 7 à 8 comités locaux d'aide aux victimes qui se sont réunis depuis que l'attentat a été commis. Lors de ces comités locaux d'aide aux victimes, nous examinons aussi comment, localement, nous pouvons améliorer la situation d'un certain nombre de victimes sur le plan psychologique, sur le plan professionnel ou des droits qui leur sont reconnus.

Le deuxième grand axe de notre action est **la dimension mémorielle**. Cette dimension essentielle est reprise dans les Lignes directrices. De la mémoire individuelle de ceux qui ont été le plus touchés par les attentats, nous devons aussi dans la mémoire collective, d'une ville, d'une société, savoir rendre hommage aux victimes. Trois grands axes ont été choisis pour les années 2018–2019.

Le premier est le fait de décerner aux victimes des attentats, une **médaille nationale de reconnaissance aux victimes de terrorisme**, créée par un décret de 2016. Elle a déjà été remise à un certain nombre de victimes lors de la commémoration en 2017 des attentats de novembre 2015. Nous avons de nombreuses demandes d'attribution de médailles en cours d'instruction, qui vont pouvoir permettre d'honorer prochainement la mémoire d'autres personnes victimes du terrorisme.

Nous avons aussi choisi de définir une **date nationale d'hommage aux victimes du terrorisme**. Le Président de la République a instauré la date du 11 mars, déjà retenue par l'Union Européenne. La première grande commémoration sera organisée le 11 mars 2020. Pour organiser cette journée de commémoration, nous travaillons aussi bien avec les instances nationales qu'avec les associations d'aide aux victimes et de victimes, lesquelles sont complètement associées à la préparation de cette journée et à la manière dont elle se déroulera l'année prochaine.

Enfin, afin d'aller encore plus loin, **un comité mémoriel** a été constitué pendant l'année 2018. Composé d'historiens et de diverses personnalités, il a procédé à des auditions tout au long des 6 mois de travaux qu'il a menés et a rendu un rapport dans lequel il a énoncé quatorze propositions. Il a par exemple proposé de faire en sorte que les jeunes générations sachent ce qu'est un attentat, se souviennent des attentats qui ont été commis et réfléchissent à ce qu'est le terrorisme. Le ministre de l'Education Nationale s'est engagé à ce qu'il y ait dans les années à venir des mentions dans les programmes scolaires, sur ces chapitres sombres de l'histoire de la France et même du monde.

De même, on sait que de grands procès vont avoir lieu en matière de terrorisme, comme celui des attentats du 13 novembre. Il est proposé que ces procès puissent être enregistrés, pour servir aussi d'outils pédagogiques. Parmi les autres propositions, il y a aussi la création d'un lieu qui soit à la fois un lieu de mémoire (permettant de donner des clefs d'analyse sur ce qu'est le terrorisme, mais aussi d'inscrire les noms de tous ceux qui ont été frappés par le terrorisme) et un lieu de formation, de transmission, ouvert non seulement au public scolaire, mais aussi à tous ceux qui ont compris les enjeux d'un tel drame qu'est celui du terrorisme.

Enfin, nous avons aussi souhaité émettre une proposition sur le rôle des médias, car nous savons à quel point les reportages particulièrement insistants, les faits remémorés de manière non- respectueuse de la dignité des victimes, peuvent être destructeurs. Et là encore, nous voulons qu'il y ait une vraie réflexion sur la responsabilité de chacun dans le respect de la dignité des victimes.

J'ai donné ainsi quelques exemples de ce qui a été mis en place et de ce qui continue à être mis en place. Même si on a l'impression que beaucoup a été fait, il reste toujours beaucoup à faire pour améliorer la prise en charge des victimes. Nous avons, par exemple, identifié le fait que de nombreuses victimes françaises qui avaient subi des faits à l'étranger, souhaitaient se rendre à l'étranger pour assister au procès de celui ou celle qui les avait commis.

Nous avons ainsi organisé cette année une retransmission à Paris du procès qui se tenait à Tunis de l'attaque du Musée du Bardo, au cours duquel des victimes françaises ont trouvé la mort et d'autres ont été blessées. Nous avons pu aussi accompagner des victimes françaises à Londres, concernant l'attaque du London Bridge, pour faire en sorte qu'elles puissent se rendre à l'audience menée par le Coroner. L'implication de France Victimes dans ces deux exercices a été considérable. Nous nous sommes ainsi rendu compte que nous devons aux victimes du terrorisme de pouvoir se rendre à l'étranger comme elles le feraient si le procès avait lieu en France.

Nous nous sommes aussi rendu compte que nous pouvions renforcer la coopération avec d'autres États, puisque dans l'exemple que j'ai donné du procès du Bardo, les victimes belges ont pu bénéficier de la retransmission initialement organisée entre la France et la Tunisie.

La prise en charge des victimes exige de réfléchir sans cesse à la manière dont on peut l'améliorer. Une question a été posée tout à l'heure, je crois par l'Allemagne, pour savoir si les droits reconnus aux victimes du terrorisme, si la prise en charge des victimes du terrorisme était spécifique ou si elle était la même que pour les victimes d'autres infractions. Je crois qu'il est nécessaire que les progrès qui sont accomplis pour la prise en charge des victimes du terrorisme bénéficient aussi à d'autres victimes, même s'il est vrai que la Nation est visée à travers les victimes du terrorisme. Il ne faut cependant pas oublier que les personnes visées ont leur singularité et que l'on doit faire le maximum pour eux.

Je vous remercie.

**Ms Jelena WATKINS**

*Physiotherapist and Support Officer for Disaster Action, United Kingdom*

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Mr President, Mr President of the Committee of Ministers, Mr President of Court, Mr Secretary General of the Parliamentary Assembly, ladies and gentlemen,

The UK experienced an unprecedented series of terrorist attacks in 2017: at Westminster Bridge, Manchester Arena, London Bridge, Finsbury Park Mosque and Parsons Green tube station. Additionally, from the attacks of the 11 September 2001 to the more recent Sri Lankan incidents, British residents have also been affected by terror attacks abroad in significant numbers.

What have we learnt over the years about the psychosocial interventions for these victims of terrorism? What improvements have been made and what remains to be addressed?

This paper will provide a summary of learnings about interventions on different levels, such as individual, family and community, and offer suggestions for future improvements.

**Impact of terror attacks**

To identify the needs of those affected by a terror attack, it is helpful to start by looking at the impact of these attacks. Terror attacks affect large numbers of people and can have extensive effects across societies, from the level of the individual and family, through to community and national impacts (see Figure 1 below).

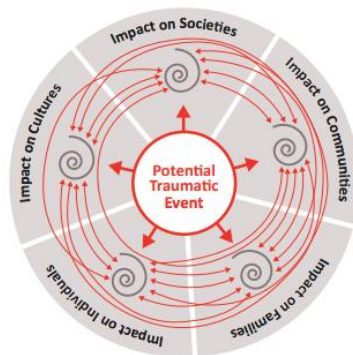


Figure 1 Systemic impact of collective and national trauma (Shamai 2015:94)

Psychosocial programmes then also need to be designed to target those different levels of impact.

I will look more closely at what has been learnt in the UK in addressing the needs at the level of individual and community.

### **Impact on individuals**

The impact on individuals affected by terror attacks has been severe in the majority of cases (Almeida and Moroz, 2017): from children suffering life changing blast injuries in Manchester after the Ariana Grande concert, to individuals losing multiple family members, to the physically uninjured survivors suffering from PTSD and being unable to work and provide for themselves and their families. These are just some examples of the impact on individual's physical health, on their psychological, social and financial wellbeing.

To address some of the needs stemming from this impact, several services and programmes have been put in place in the UK. Here I will provide an example of psychological services provided and the lessons learnt.

### **Provision of psychological therapy**

Post-traumatic stress disorder (PTSD) and other mental health problems are common concerns for those affected.

We have seen an improvement over the past two decades in the organised provision of trauma therapy for those affected by terrorism. In 2001, following the 9/11 attacks in the USA, there was a significant number of UK residents affected, given that 67 British citizens lost their lives. There was no organised programme of screening and delivery of counselling and therapy, although individuals were encouraged to seek therapy and re-imburement was available for this.

Following the July 7<sup>th</sup> bombings in 2005, a Screen and Treat Programme was introduced in the UK for the first time.

The mental health strategy was to systematically identify, and screen individuals directly involved in the bombings, and to offer specialist evidence-based interventions to those who were showing symptoms of PTSD and other trauma-related difficulties. The Trauma Response Programme (TRP), funded by the Department of Health, ran for two years starting two months after the attack. Those individuals that required

therapy were seen at one of three specialist trauma centres in London. The programme was well received by those directly affected who appreciated being proactively contacted and screened on a regular basis (Brewin, 2010). The limitation of the programme was that it was only available in London, whereas many of those affected were based outside of the capital and also in a number of other countries.

Some of the limitations of this first programme were improved on in the second bespoke Screen and Treat Programme established after the 2015 terrorist attacks in Tunisia, and Paris and Brussels in 2016, when a broader programme was set up to identify and screen residents of England whose mental health had been affected. This programme had a wider geographic reach. Again, individuals who screened positive on an assessment for PTSD and other disorders were offered clinical assessment and referred to an appropriate National Health Service (NHS) service, if required (Gobin et al, 2018).

It is unfortunate that the programme started with a delay of a year after the terror attacks, due to lack of funding for the programme. This is an important lesson learnt, that funding mechanisms need to be planned for these interventions and agreed in advance.

Following the attacks in Manchester and London, similar programmes have been set up, where a centralised screening team proactively reaches out to those affected with the help of the Police and other agencies, and repeatedly offers screening for psychological disorders. Although such services, based on proactive outreach, are well received by those affected by terrorism, there continues to be a delay in setting up such services. Additionally, there is a need for more detailed planning around additional funding for delivery of local services to increase capacity and reduce waiting times for treatment (Watkins, 2018).

### **Impact on communities**

When we talk about community, first it is important to consider all the people affected by a terror attack as potentially being a community, even if they are geographically dispersed. Then we need to design services which contribute to these dispersed individuals becoming a community.

One such programme currently being run is the Manchester Attack Support Group Programme. I am the Clinical Lead for this programme, which I have co-designed with my colleague Dr. Anne Eyre.



We were aware of the need for mutual connection of those affected by the Manchester Attack following feedback from those who had been brought together for initial family and memorial meetings, as well as from my own facilitation of a support group for survivors of the Paris Attacks. As I am also a founding member of the UK 9/11 Family Association, I have the perspective of both being part of an action group as well as a being a facilitator of a talking group.

We have created a number of regional support groups concentrated in the North of England and Scotland, as well as a telephone support group. This reflects the areas from which most people had travelled to attend the concert. Most of those joining the groups were survivors but there are dedicated groups for the bereaved, the injured and for responders.

Our facilitators are all qualified psychotherapists who are trained and experienced in disaster trauma and traumatic loss. The programme is funded by the We Love Manchester Emergency Fund, for two years.

From the interim review, we are finding that for many people, meeting others affected by the same terror attack, reduces loneliness and sense of isolation and also keeps people included and informed about issues related to the attack (Eyre, forthcoming).

## **Conclusion**

The experience in the UK has shown that those affected appreciate psychosocial programmes which are based on a proactive and repeated outreach, such as the psychological Screen and Treat programme. Currently such programmes tend to be limited to 2-3 years: however, our experience demonstrates that the need continues for much longer. There is also a need to expand the capacity of the current NHS system, which can be achieved by appropriate planning and funding.

There is a need for both individual and collective interventions in the UK. In order to deliver programmes of psychological support and peer support that meet the needs of those affected by terrorism, it is recommended that more detailed arrangements are made at the planning stage for financing of such programmes so as to avoid delays.

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## **Ms An VERELST**

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On the 22nd March 2016, Belgium was struck by terrorist attacks that killed 32 (17 Belgian, 15 internationals) and left 340 injured. The attacks left their marks on thousands of relatives and indirect victims and affected the Belgian society as a whole. The consequences of the attacks were immediate and complex and affected victims and their relatives physically, psychologically, financially, practically, and socially.

The psychosocial needs for victims of the attacks in Brussels were often varied, intertwined with other needs, multifaceted and at times overwhelming not only for victims and their social environment but also for the existing services. Since 2016, a number of important initiatives have been taken in Belgium to improve services and strengthen legislation to ensure victims of terrorism receive the support they need. In February 2019, another set of legislative instruments was adopted that mainly pertain to financial support and compensation to victims of terrorism<sup>30</sup>. Whilst important steps have been taken, a lot remains to be done to put these legislative and institutional developments in practice for those still suffering the consequences of the attacks today. More needs to be done in Belgium to ensure victims in the future will also receive the comprehensive support they need and are entitled to, according to both EU legislation and international agreements.

In the aftermath of the Brussels attacks, a number of challenges have come to the fore, both in the immediate, medium and long term, that impacted the psychosocial consequences and care for victims. A number of these issues will be discussed below as well as some of the important measures that were taken to improve the psychosocial support offered.

One of the particular characteristics of terrorist attacks is that in its immediate aftermath not only a restricted number of victims but the whole

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<sup>30</sup> Wet van 15 januari 2019 tot wijziging van de wet van 1 augustus 1985 houdende fiscale en andere bepalingen wat de hulp aan de slachtoffers van terrorisme betreft.

[http://www.ejustice.just.fgov.be/cgi/article\\_body.pl?language=nl&caller=summary&pub\\_date=2019-02-08&numac=2019030067%0D%0A#top](http://www.ejustice.just.fgov.be/cgi/article_body.pl?language=nl&caller=summary&pub_date=2019-02-08&numac=2019030067%0D%0A#top).

Wet van 3 februari 2019 tot wijziging van de wet van 1 augustus 1985 houdende fiscale en andere bepalingen wat de bevoegdheden van de commissie voor financiële hulp aan slachtoffers van opzettelijke gewelddaden en aan de occasionele redders betreft inzake de slachtoffers van terrorisme.

[http://www.ejustice.just.fgov.be/cgi/article\\_body.pl?language=nl&caller=summary&pub\\_date=2019-02-08&numac=2019010575%0D%0A#top](http://www.ejustice.just.fgov.be/cgi/article_body.pl?language=nl&caller=summary&pub_date=2019-02-08&numac=2019010575%0D%0A#top).

society at large is affected. Services and institutions are impacted as well as those serving there. Services are faced with exceptional and urgent physical and psychological needs they have to attend to in atmosphere where security is often still not re-established. The same thing happened after the attacks in Brussels. In the chaos of the attacks thousands of people were in or around the airport and the metro station and many thousands more across the world knew someone who might have been there at the time. Those present at the scene ran for their lives away from the scene and (as is often the case after attacks in 'open' or public spaces) were not registered as victims. For those who were registered crucial data was often missing, multiple lists were established and sharing of data of those in hospitals was flawed which all added to the confusion.

Registration of victims and those present at the scene is in many ways important as it will shape the support trajectory victims will receive in the immediate aftermath and for the rest of their lives. Research shows that when psychosocial support is provided soon after the attack, long-term consequences are reduced or avoided. Lack of quality registration will impede short term support from being offered, rights will not be explained, information will not be provided about compensation, invitations will not be sent for memorial services.

The information provision about victims' rights after the attacks was chaotic, which is hard to avoid as we have seen after attacks worldwide. Nonetheless, the days of insecurity for relatives searching from hospital to hospital for their loved ones has had a tremendous impact on the psychosocial consequences of the attacks. That it took up to four days for some relatives to get information about the fate of their loved ones is one of the traumatising experiences that carries a pervasive and long-lasting impact. Other countries have shown that mitigating the effects of that extremely stressful period by offering specialised psychosocial support and centralising information so that tailored, trauma-sensitive information reaches victims, is very important.

Another challenge to providing psychosocial support after the Brussels attacks presented itself because of the international make-up of the victim population. As they were targeted in a travel hub in one of the world's most diverse cities, a large proportion of those who were deceased or physically/ psychologically injured were not Belgians nor residents in the country. The Flemish Minister of Welfare, Public, Health and Family requested help from Victim Support Europe, the leading network working on victim support and victims' rights in Europe, to liaise with national organisations so international victims could be provided support once

they returned home. The challenges in reaching out to victims were exacerbated by the lack of quality registration of victims.

One of the main assets of the Belgian psychosocial response to terrorist attacks is the comprehensive psychosocial support mechanism in the immediate aftermath lead by the Federal Ministry of Health, Food Chain Safety and Environment. An elaborate plan for psychosocial support of victims of terrorism including local, supra-local and national actors involved under the guidance and coordination of a psychosocial manager was also set in motion after the Brussels attacks. Although a lot of gaps were identified, the existence of that plan and the mechanisms behind it proved vital.

Psychosocial support for victims of terrorism in Belgium is the responsibility of the federal government immediately after an attack, but this responsibility moves rather quickly to the community level. The transition of responsibility for psychosocial support for victims over governmental structures proved to be challenging and complex. Although a transition mechanism did exist, partners across governmental levels did not always know each other well enough to facilitate a smooth transition.

The complexity of the psychosocial support landscape in Belgium was not only puzzling for many victims and relatives, it was also unclear between governmental levels and partners. There is a strong difference between communities in how victim support is organised and that complexity extends through the diverse services that are involved in psychosocial support of victims. The responsibility for victim support in Flanders for instance lies in separate structures managed by police (Slachtofferbejegening), justice department (Slachtofferonthaal) and the victim support in social welfare services ran by different NGOs in one decentralised network (Slachtofferhulp). The UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Fionnuala Ní Aoláin, in her report on Belgium<sup>31</sup> voiced her concern on the 'lack of responsiveness from the government' in the aftermath of the attacks and refers to victims' experiences of 'abandonment and struggle to locate support, medical or otherwise'.

While important and big steps have been taken the last few years by the community and federal government to facilitate and strengthen the network and foster collaboration, this complexity and dispersal hampered

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<sup>31</sup> Report of the Special Rapporteur on the promotion and protection of human rights while countering terrorism, Addendum - Visit to Belgium, A/HRC/40/52/Add.5.

psychosocial support provision profusely. The burden for finding adequate psychosocial support from victim support services often lay with the victims. A recent study carried out at Ghent University shows the vast difference in quality, services offered, and support received from the victim support services between different victims across Flemish provinces – getting the right support seems to be ‘a question of luck’<sup>32</sup>. Our research shows how support providers recognise the lack of consistency in offered psychosocial services for victims of the attacks. While a lot of victims of the Brussels attacks have received very good psychosocial support, many however have not. Although I know and realise that many ‘good stories’ are rarely brought to the media, those victims asking for attention for how they did not receive the psychosocial support they needed after the attacks were not exaggerating.

The administrative burden that victims faced in the aftermath of the attacks also seems to have exacerbated the psychosocial consequences. Victims needed to fight an administrative battle – and many are still fighting it today, more than three years later – accessing the financial compensation they need to get by, dealing with insurance claims, finding the right support services, dealing with the administration and practical difficulties after having lost their loved ones. As one victim testified, the administrative stress victims face is a second attack they have to deal with. Studies have consistently shown how after traumatic experiences daily stressors – in this case administrative and practical issues caused by the attack – can exacerbate symptoms of post-traumatic stress disorder significantly<sup>33</sup>. While, unfortunately, structural research on this issue was not set up after the Brussels attacks, hundreds of accounts and testimonies underwrite that the same process took place in Belgium. The administrative burden on victims of terrorism in Belgium has been unconceivable, hampering victims to heal on a psychological and social level. The recently published report by Joëlle Milquet, Special Adviser to the President of the European Commission, provides important guidelines on how to make compensation for victims of terrorism (and

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<sup>32</sup> Ghyselink, F. (2019). De realisatie van de rechten van terreurslachtoffers binnen slachtofferhulp. Een onderzoek vanuit slachtoffer-en professioneel perspectief na de aanslagen van 22 maart 2016. (Unpublished master's thesis). Ghent University, Ghent, Belgium.

<sup>33</sup> Miller, K. E., & Rasmussen, A. (2010). War exposure, daily stressors, and mental health in conflict and post-conflict settings: bridging the divide between trauma-focused and psychosocial frameworks. *Social science & medicine*, 70(1), 7-16.; Verelst, A., De Schryver, M., Broekaert, E., & Derluyn, I. (2014). Mental health of victims of sexual violence in eastern Congo: associations with daily stressors, stigma, and labeling. *BMC women's health*, 14(1), 106.

other victims) more accessible, victim-friendly and less burdensome for victims<sup>34</sup>.

The repeated request by victims and civil society to set up a one-stop-shop, as is already the case in a number of EU member states, where victims can find all services together under one roof or where a case manager follows a victim's complete case facilitating access to different services, has not yet been fully met. To set up a service with case managers/reference professionals was also one of the important recommendations that the Belgian Parliamentary Inquiry Commission made in their final report<sup>35</sup>. The government has already set up a specialised service in the department of Justice to support compensation claims and that is run by the renowned Olivier Lauwers in a humane and comprehensive way. Yet, a real one-stop-shop or case management system is not functioning in practice. The One-stop-shop, uniek loket or guichet unique, is one of the issues that show how political engagement requires additional political investments and associated budgets to make it a reality. Countries like France where a budget to enhance and improve services not only immediately after the event but on the long run becomes available after an attack shows how this is possible.

Three years later it is apparent, as in many countries across the world, that the existing expertise in trauma care and specialised trauma support is lacking in Belgium. The UN Special Rapporteur refers to the struggle of victims to 'access essential entitlements' related to their psychosocial needs. Extensive examples show that the experts in trauma that do exist in Belgium are difficult to identify or reach, as corroborated by the Special Rapporteur.

One of the many initiatives taken in Belgium to work towards an improvement of support to victims of terrorism at all levels is the building of the network of partners involved in the immediate and long-term aftermath. As we know from hundreds of examples worldwide, the key to a good response lies in the preparation. Building the network and relationships between those on the ground is one of the strong initiatives

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<sup>34</sup> Milquet (2019). Strengthening victims' rights: from compensation to reparation. For a new EU Victims' rights strategy 2020-2025. Report of the Special Adviser to the President of the European Commission, Jean-Claude Juncker, Publications Office of the European Union, Luxembourg.

<sup>35</sup> Belgische Kamer van Volksvertegenwoordigers. (2018). Onderzoekscommissie TERRORISTISCHE AANSLAGEN 22 maart 2016. Beknopt overzicht van de werkzaamheden en aanbevelingen. Geraadpleegd op 26 januari 2019, van 67 [https://www.dekamer.be/kvvcr/pdf\\_sections/publications/attentats/Brochure\\_Terreuraanslagen.pdf](https://www.dekamer.be/kvvcr/pdf_sections/publications/attentats/Brochure_Terreuraanslagen.pdf).

taken by the Belgian government. Minister of Justice Koen Geens has set up a taskforce<sup>36</sup> to coordinate the support to victims of terrorist acts, bringing professionals from government services, civil society and victims associations together to discuss how support could be improved.

The working group on improved psychosocial support that was part of the technical task force has developed a psychosocial follow up plan with all partners of the immediate and long-term phase under the guidance of Federal Department of Public Health, Food Chain Safety and Environment. The working group report points to some foci of attentions that will be key in improving the psychosocial support to victims in Belgium. The report provides a comprehensive overview of existing services and partners, and the further needs and avenues for improvement in the short, mid and long term when providing support to victims of terrorism.

Increased education, quality assurance and expertise on trauma is dealt with in the report and thus an increase in psychotrauma therapists is identified as an important need. Recommendations were made and concrete actions were already taken to improve the psychosocial intervention plan guided by the Federal Department of Public Health, Food Chain Safety and Environment.

Another important recommendation was the appointment of coordinators for psychosocial care in the different communities in Belgium that can guide the support provision, quality of care and transition from short to long term for victims of terrorist attacks. The strengthen of this transfer across governmental mandates is an important concrete and valuable point addressed in the working group report. The need and description of a one-stop-shop is once more addressed and repeated to ensure the psychosocial support for victims is improved. Important steps have been taken in this working group, backed up by political engagements, to develop this comprehensive one-stop-shop in the future.

INVICTM, the International Network Supporting Victims of Terrorism and Mass Violence, is a forum from expert NGOs, law enforcement agencies, and civil society members that share information based upon their background, country and professional perspective to strengthen international support for victims of terrorism. I am a proud member of

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<sup>36</sup> Belga. (2017). Taskforce die hulp aan slachtoffers terrorisme coördineert, gaat van start. Geraadpleegd op 15 mei 2019, van <https://www.knack.be/nieuws/belgie/taskforce-die-hulp-aan-slachtoffers-terrorisme-coordineert-gaat-van-start/article-belga-872069.html>.



INVICTM, but am speaking today on my own behalf, not necessarily reflecting the views of all members of our network. INVICTM recently published a report<sup>37</sup> of their yearly Symposium on supporting victims of terrorism. Based on the framework of predictable challenges and practical solutions to improve support for victims of terrorism and share knowledge developed by FBI Victim Services Division the report offers a number of recommendations and good practices to improve support for victims of terrorism.

The model starts from the premise that each terrorist attack or mass victimisation is unique and demands flexibility to respond to the particular needs of victims. Nonetheless, expertise and experience have allowed for the identification of predictable challenges and practical solutions. Some of these predictable challenges can also be encountered in the aftermath of the Brussels attack such as the identification of victims, management of victim/family response; communication; resource coordination; impact on responders and service providers.

Across the globe, governments and civil society are working towards practical solutions to these challenges and the INVICTM reports offers some of them. These concrete good practices from across the world can certainly be an example for Belgium and other member states that have been working to improve their response for victims of terrorism. The report offers particular attention to the need for simple, accessible and victim-sensitive communication for victims that support respectful treatment and quality psychosocial support.

The Brussels attacks affected victims, their families, communities and the whole society far beyond the Belgian geographical borders. Psychosocial support offered to victims of the terrorist attacks from the immediate aftermath to now, three years later, has its strengths and qualities and has made a difference for many victims. However, a specialised psychosocial support was often difficult to access, variable in quality and not continuously offered. The Belgian government has taken considerable strides towards an improved psychosocial support system for victims of terrorism in Belgium. To conclude, some of the most important changes to be made to further the psychosocial support for victims would be the following.

The Belgian government is obliged to implement the European Directive on Combating Terrorism (2017/541) as well as the EU Victims' Rights

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<sup>37</sup> INVICTM (2018). Supporting Victims of Terrorism Report of the INVICTM Symposium, Stockholm, 2018.

Directive (2012/29/EU). The European legislative framework guarantees that member States offer a comprehensive response to the specific needs of victims of terrorism immediately after a terrorist attack and for as long as necessary. Full practical implementation of the EU framework for victims of terrorism in the Belgian legislative framework, policy and practice would without a doubt improve psychosocial support further. Also, implementation of the Revised Guidelines on the protection of victims of terrorism of the Council of Europe in 2017 would strengthen psychosocial support of victims of terrorism on many levels as it offers guidance for a strong protection policy, financial assistance and compensation for victims.

Victims have reiterated time and time again how the current psychosocial support offer lacks in proactivity. Victims of terrorism need a proactive offer for support that is made not once but repeatedly. Simple, clear and accessible information is key to facilitate good psychosocial support to victims. In addition, the need for a one-stop-shop or a network of dedicated victim navigators has been brought forward around the world as a good practice to ensure victims of terrorist attacks receive the comprehensive support they need. Initiatives taken by the Belgian government to initiate such a one-stop-shop are valuable and notable. Complementary policy, political and budgetary actions should be taken to make the one-stop-shop a reality not only for future victims but for those still dealing with the consequences of the Brussels attacks or Belgians dealing with the consequences of terrorist attacks they suffered abroad.

Understanding the issues victims face in the aftermath of terrorism can only be achieved by listening to their stories and experiences. Peer support groups can have an important role to communicate these needs to policy makers and practitioners. Also, their role in the actual support of victims should not be underestimated and requires a structural backing. These victim associations, civil society and victim experts should be part of the development of psychosocial support services and responses related to terrorism. This helps ensure that all perspectives of victims are covered.

And a final remark that pertains to psychosocial support to victims belonging to certain groups. In Belgium, as in many countries, more vulnerable groups of victims are often overlooked when states and civil society are responding to an already overwhelming amalgamation of needs of victims that are more visible. Children, (undocumented) migrants, people with disabilities or previous mental health issues, are often more vulnerable to the psychosocial consequences of terrorist attacks and should receive additional and tailored psychosocial support.

## **Mr Ahmet MOLLAMAHMUTOĞLU**

*Reporter Judge, Ministry of Justice, Turkey*

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Distinguished guests,

My name is Ahmet Mollamahmutoğlu, and I am working as a reporter judge in the Ministry of Justice in Turkey.

I am also a terror victim. While I was performing my mandatory military service, we went to investigate a situation which involved a suspect who was aiding and abetting the terrorist organisation PKK by supplying the terrorists. When we were about to search his vehicle, several terrorists attacked us. I was wounded by the first shot.

In this presentation, as a victim of terrorism, I will try to explain the types of problems that victims of terrorism suffer and to what extent the provision of aid can resolve them.

Until the adoption of the law in 2003, the rights of victims of terrorism were protected by various laws in a very limited fashion. Although some financial and social aid was being provided to public official victims, who were combating terrorism, civilian victims lacked any such assistance.

The domestic courts were filling this gap by interpreting the State's obligation to prevent the acts of terror through a broad perspective and were making decisions to compensate the civil victims, despite the fact that no such clause existed in the legislation.

Acts of terror are generally not directed against a specific individual. Victims suffer harm because of the terrorist's desire to reach political goals by causing social anxiety and despair. Having suffered harm, which is aimed at society, the victim should expect that the harm will be compensated by the State, in the most effortless manner possible for the victim. The victim should not be placed in a situation of confrontation against society.

Therefore, in 2003, Turkey enacted legal regulations which allow terror victims to be compensated for their harm without filing a lawsuit against the State. In accordance with these regulations, damage compensation commissions were established in each province. The necessary procedures are initiated when an application is made to the relevant provincial or district governor.

The damages and the grievances resulting from a terrorist attack are varied.

Undoubtedly, the heaviest and the most tragic result of this situation is the loss of life. This is followed by loss of physical integrity and health.

Leaving aside the legal regulations that I just mentioned, and addressing the situation from a humanitarian perspective, the most gravely needed thing for a person who is injured by a terrorist attack is urgent medical attention.

In Turkey, urgent medical attention is free of charge, regardless of whether or not the victim is a victim of terrorism.

I was taken to a hospital that is specialised in traumatology by an ambulance aircraft on the day I was injured. I stayed in the hospital for about 20 days, underwent surgery and platinums were implanted inside my body. I received physical and psychological therapy after my stay in the hospital, and I did not have to pay for any of this. Thanks to these health services, I can walk and run. Equally, I can do my job. Victims of terrorism in Turkey, regardless of whether they are civilians or public officials, may benefit greatly from free health services including the medium and long-term medical and psychological assistance.

Leaving aside the damage caused by the mental trauma suffered, the first thing a victim who has regained his health will think about is how he will sustain his daily life and provide subsistence for those who are dependent on him.

When I was being treated at the hospital, I had no dependents. I was not married. However, if I had been unable to work, I could have faced financial troubles later on. Frankly, I was worried about this situation.

As a rule, the compensation commissions award the victim the compensation in cash, taking into account the degree of his/her injury or disability.

The basic criterion in determining the amount of cash compensation is the degree of injury or disability: the higher the degree of disability, the higher the cash compensation that is received by the victim.

Additionally, the Social Security Institution assigns victims of terrorism a certain amount of salary. The basic criterion regarding this salary is the degree of the disability of the victim.

Moreover, the Ministry of Family and Social Affairs recognises the victim or his relatives' opportunities for employment.

As a victim of terrorism, I received cash compensation from the State and I was also paid a monthly salary according to my degree of disability.

Although it did not happen to me, the property of the victims of terrorism may also be damaged. Animals, trees, products and other movable and immovable property of the victims may be damaged by a terrorist attack. People may be forced to leave their abodes due to the terrorist act or they may have suffered due to their inability to access their assets.

The compensation commission also decides on the compensation for such losses. The commission may, if necessary, carry out an on-site investigation and the costs for such an investigation will also be met by the State.

The issues I have mentioned so far are the rights granted to both victims of terrorism and to civil servants who become victims in the fight against terrorism.

Moreover, the State has granted different rights to public officials who become victims in the fight against terrorism. I am in this category, as I became a victim of terror while doing my compulsory military service.

Public officials who become victims in the fight against terrorism benefit from interest-free housing loans, free public transportation and inter-city train services.

They use electricity and water at half the regular price.

Their children receive free access to special education institutions.

In addition, they might be honoured with the State Praise Medal for being injured during their contribution to the fight against terrorism.

With a new regulation, the civilians who were injured while resisting the coup attempt on 15 July 2016 have gained the status of public servants fighting against terrorism. These victims of terror enjoy all the rights listed above.

From 2003 until present, the compensation commission paid approximately 700 million Euros to civil victims.

Nearly 4200 terror victims were given a job opportunity. Moreover, they were provided a monthly salary.

Turkey would be happy to share its experiences on providing financial, legal and social aids to terror victims with other member states.

Thank you.

## Ms Aleksandra IVANKOVIĆ

*Deputy Director, Victim Support Europe*

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To respond to victimisation, States and service providers need to make sure that the response to victimisation in general, and terrorist victimisation in particular, is based on victims' rights and driven by their needs. These needs are identified by the Victims' Rights Directive and can be presented in the five basic groups: (1) respect and recognition; (2) support and information; (3) access to justice; (4) protection and (5) compensation. Some level and form of each of these needs will be necessary for every victim of crime. However, some groups of victims have further, specific needs, and this is where specific and targeted response to terrorist victimisation will be most important. For example, for victims of terrorism, recognition may be particularly important through memorials, while peer support may be seen as a specific form of support that is specifically important for such victims. Of course, the individual situation of each victim will be taken into consideration in tailoring personal response to each victim but understanding the pyramid of victims' needs is important to prepare response to any form of victimization, including to terror attacks.





To respect and recognise victims of terrorism, it is important to ensure that **all victims** are recognised. This is particularly relevant for cross-border victims. The specificity of terrorism is that it is usually targeting highly popular places – tourist attractions with the significant presence of foreigners. Its ‘special feature’ is the ability to affect many people of many backgrounds, hence attacking the universal and global values that the modern societies are basing themselves on. In such circumstances, it is a rule, rather than an exception, that many foreign nationals will be affected by an attack. On the other hand, national response mechanisms, when they exist, are not normally equipped to deal with a highly international population of victims. Involving consulates, foreign missions, associations of foreign nationals, cooperation with other national law enforcement agencies, will often be required, and in that regard, it is important to be able to respond to a significant cross-border element of terrorist victimisation.

Another important element of recognising victims of terrorism is their involvement in the planning and delivery of memorials and commemorations. It is not uncommon to receive reports from victims’ organisations that memorials are hastily planned with little involvement of victims, often leaving aside foreign victims. Other times, politicians see anniversaries as photo opportunities in the election cycle, rather than moments of reflection and commemoration of those who gave their lives in a terror attack. While it needs to be accepted that it is difficult to achieve consensus on issues as sensitive and emotional as victims’ memorials, it is crucial to involve victims and seek their involvement, opinion and approval for any initiative which relates to commemoration of victims of terror attacks.

Responding to victims’ needs happens in three main phases: (1) preparation and planning; (2) immediate (crisis) response and (3) long-term support.

It is important to think about response to terror attacks not only from the perspective of immediate apprehension of perpetrators and their successful prosecution, but from the perspective of being able to properly respond to the needs of victims and their family members and to minimise



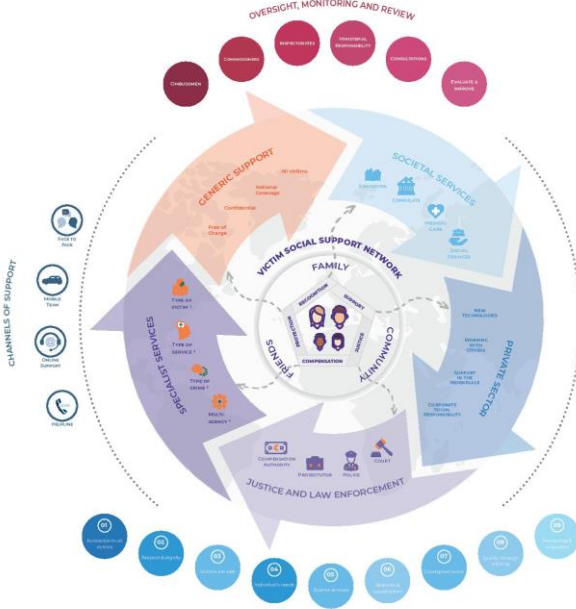
the impact and consequences of victimisation in the aftermath of an attack. To be able to do that, preparation and planning is the key to proper response to victims' needs and requires compulsory participation of victim support organisations in this phase. For example, France victim, the French federation of victim support, has been a part of this phase in recent years and victims' experiences are significantly improving due to this participation.

For similar reasons, it is important to ensure that victim support organisations are involved in the crisis response, and to be present at the spot as early as possible, and for as long as necessary. In this regard information is often crucial. In too many instances, information is not streamlined and there is little organisation or allocation of responsibility to provide accurate and timely information to victims or general public. Victim Support Europe is aware of too many instances when family members of victims who had lost their lives in terror attacks, spend days agonising about the whereabouts of their loved ones. At the same time, the authorities were 'sitting' on this information, but failing to share it with victims, to finally share it with little empathy and providing next to no support to the families in the immediate period. Some practices, such as involvement of family liaison officers in the UK, point to the potentially good approaches and show that with some effort, secondary victimisation in this critical period can be reduced or even eliminated. Success of information depends on the location of attack – whether it is home or abroad. To get it right, routes for informing victims need to be maximised and connected with support, whilst also ensuring trustworthiness of information and providing support to victims and their loved ones. This is best provided in collaboration and partnership of first responders, embassies or other diplomatic or foreign representations and victim support organisations.

Finally, support needs to be available for as long as necessary. Victims' needs do not disappear when the scars are healed or when the perpetrator is put behind bars. Some needs are complex and can last for a lifetime and response mechanisms need to be equipped to support victims through the entire process. Needs will change over time, which should also be factored in and systems need to be flexible enough to respond to changing victims' needs.

Victim support needs are comprehensive. All elements of the society need to be victim-aware, while those that are involved in the provision of victim support, need also be victim-centered.

## NATIONAL FRAMEWORK FOR COMPREHENSIVE VICTIM SUPPORT



Namely, victim support is not only a generic victim support organisation, which often contains the words ‘victim support’ in their name. Many other specialist forms of support will be involved in responding to terrorist victimisation. Specialist organisations may provide specialist services only for victims of terrorism, but can also specialise to support certain types of victims (e.g. children or persons with disabilities), provide certain types of specialised services (legal aid, peer support or emergency housing), or can sometimes involve complex multi-agency services in specific cases. Moreover, victims’ needs will need to be catered to through the justice or health systems, or in the private sector.

Many other elements need to be put into place to properly respond to victimisation in general, and terrorist victimisation in particular, and this all needs to be reflected in ensuring that States respond to victims’ needs.

Core principles of the delivery of victim support can be summarised in the table below:

All victims	Respect	Empower	Relevant
<p>Circles of impact At home and abroad Public info and direct to victims Accessible for all: geographical scope, Proactive - reach out, referral, help them come forward Co-ordination of services Free of charge Everyone's job</p>	<ul style="list-style-type: none"> <li>•Direct interactions</li> <li>•Institutionalised in structures</li> <li>•Transparent</li> <li>•Communication and information – multi-format, simple and accessible</li> <li>•Non-discriminatory</li> <li>•Confidential</li> <li>•Constant review and improvement</li> </ul>	<ul style="list-style-type: none"> <li>•Listen</li> <li>•Consult</li> <li>•Participation</li> <li>•Self realisation</li> <li>•Education and self help</li> </ul>	<p>Universal/ generic and specialist services Stepped model Targeted, flexible and individualised – based on assessment and different therapies Watchful waiting Regularly reviewed For as long as needed High quality, consistent standards</p>

While victims can never be said to have ‘asked for it’, this is particularly important for victims of terrorism – as their entire traumatic experience is based on randomness of their targeting for victims. They become victims indeed because they are not expecting it – often while they are trying to have a positive experience in life – having a dinner at a restaurant, attending a concert or a theatre play, or seeing fireworks with the family.

The support needs to be provided in a planned and sustainable manner. Victim support is not a project, and States should not see it as such. It cannot be acceptable to introduce a service only for a few years and then discontinue it, because the ‘project’ is over. Victims need support in the long term and they need to know that they will receive it for as long as it is needed. It cannot be left to the good will of volunteers or a skill of fundraiser to ensure the continuation of a service – that is the obligation of the State.

Victim support is not a cost on the budget. Research indicates that every expenditure on victim support is bound to yield multifold benefits, both in terms of victims’ experiences and in the long-term reduction of cost for the society. There is ample evidence that victim support is not a cost, but an investment, and should be seen as such.

To do better for victims of terrorism, an international response network, which already exists within Victim Support Europe, needs to be extended, expanded and receive better funding.

Through such network, we can make sure that best practices are exchanged and expertise is developed or improved to better respond to needs of victims of terrorism. Civil society needs to be involved at every stage of response, for a myriad of reasons, including their flexibility,

adaptability and ability to better adjust to victims' needs at a smaller cost, but finally because they are better able to support victims.

In responding to terrorist victimisation, it is important to remember that **we owe it to the victims** to support them and provide for them.

## Concluding remarks

### **Mr Hans-Jörg BEHRENS**

*Chair of the Steering Committee for Human Rights (CDDH),  
Council of Europe*

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Thank you very much.

I will now try to sum up in a few words.

It seems clear that it was not too early to revise the Guidelines. We will have to watch the developments in this field and I can assure everyone that the Steering Committee for Human Rights will continue to look at this issue. We are ready to assist any action that may emerge from the Council of Europe on this topic. We heard already that the Parliamentary Assembly is looking at a report that may touch upon the issue, and we will probably have to provide comments on whatever action the Assembly may take following this report. The debate will go on, and rightly so.

It has taken some time for the viewpoint of the victims to become as prominent as it deserved to be from the beginning, but I think this has now changed. I would like to highlight some points made during the workshop.

First, the importance of preparation. Preparation for an emergency is possible, and member States should act proactively in recognising the needs of potential victims. That is something that we should certainly take home.

Secondly, there is the issue of funding. Nothing works without money. We heard that it is an investment and member States will actually get the money back in some way. But I have to say that even if the money was spent it would be well spent. I would rather not have Ministries of Finance look at it as an investment proposal.

The Guidelines are an example of a document of which everyone hopes that it will never be needed in practice. But it is good to know that it is there, good to know that there is some sort of preparation or at least that we know how we should prepare.

And this is the note on which I would now close the workshop. Thank you all for attending; many thanks to the panellists for their contributions, to the French Chairmanship for organising it, and of course, as always, many thanks to the interpreters.

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	<b>Z</b>
	<p>Olga ZINCHENKO</p>







**COMPILATION OF THE REPLIES  
RECEIVED FROM MEMBER STATES ON  
THE PROTECTION OF VICTIMS OF  
TERRORIST ACTS <sup>38</sup>**

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<sup>38</sup> Contributions have been submitted by 20 countries: Austria, Belgium, Croatia, Cyprus, Denmark, Estonia, Finland, France, Germany, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Spain, Sweden, Switzerland and Turkey.

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## 1. Have victims of terrorist acts recognised a particular legal status in your country?

a. *In particular, does any definition of “victim of terrorist act” exist in your legal system?*

### AUSTRIA

Yes: According to § 65 subpara. 1 of the (Austrian) Criminal Procedure Code (*Strafprozeßordnung 1975 - StPO*; CCP) the general definition of “victim” refers to

- a. any person who, through an intentionally committed criminal offence, might have been exposed to violence or dangerous threats, or might have been violated in their sexual integrity or sexual self-determination, or whose personal dependency might have been exploited by such an offence;
- b. the spouse, registered partner, domestic partner, relatives in a direct ancestral line, siblings and other dependents of a person, whose death might have been caused by a criminal offence, or other relatives who were witnesses of the crime;
- c. any other person who might have suffered damage or whose legal interests protected by criminal law might have been violated through a criminal offence.

With effect from 1 November 2018, the Criminal Law Amendment Act 2018 (*Strafrechtsänderungsgesetz 2018*, Federal Law Gazette I No. 70/2018) broadened the group of victims that are afforded psychosocial and legal support for the criminal proceedings upon request by explicitly including victims of terrorist offenses according to § 278c of the (Austrian) Criminal Code (*Strafgesetzbuch - StGB*) in § 66 para. 2 CCP (for details please refer to the answer to question 7).

§ 278c of the Austrian Criminal Code reads as follows:

## „Terrorist offences

### § 278c. (1) Terrorist offences involve

1. murder (§ 75),
2. assaults under §§ 84 to 87,
3. kidnapping for ransom (§ 102),
4. serious coercion (§ 106),
5. dangerous threat under § 107 para. 2,
6. serious property damage (§ 126) and damage to electronic data (§ 126a), if the offence is capable of causing a danger to the life of another or to the property of another on a larger scale,
7. intentional offences against public safety (§§ 169, 171, 173, 175, 176, 177a, 177b, 178) or intentional offences against the environment (§ 180),
8. hijacking of an aircraft (§ 185),
9. intentional endangerment of the safety of aviation (§ 186),
- 9a. instigation and endorsement of terrorist offences (§ 282a) or
10. offences under § 50 of the Weapons Act 1996 [Waffengesetz 1996 (WaffG)] or § 7 of the Munitions Act [Kriegsmaterialgesetz],

if the offence is capable of causing a serious or long-lasting disruption of public life or serious damage to commercial life and if the offence is committed with the intention to intimidate the public in a grave manner, to coerce public offices or an international organisation to do, tolerate, or omit an act, or destroy or seriously shake the political, constitutional, economic, or social foundations of a State or an international organisation.

(2) Any person who commits a terrorist offence within the meaning of para. 1 is punishable by the penalty provided in the relevant legal provisions, whilst the maximum of the relevant penalty may be increased by half [50 %] but to no more than a maximum penalty of twenty years [imprisonment].

(3) An offence is not considered to be a terrorist offence if it aims to establish or re-establish democracy and the rule of law or the exercise or protection of human rights“

Victims of terrorist acts who are Austrian nationals and – under certain conditions – EU citizens are entitled to government support under the (Austrian) Victims of Crime Act (*Verbrechensopfergesetz* – VOG, Federal Law Gazette No. 288/1972).



## BELGIUM

Dans le cadre de la procédure pénale il n'existe pas une définition spécifique pour les victimes d'actes terroristes. Dans le cadre de l'aide financière aux victimes, il existe des dispositions et procédures spécifiques pour les victimes d'actes terroristes. Une victime de terrorisme peut cependant bénéficier sous certaines conditions d'une reconnaissance comme victime directe ou indirecte via l'octroi du statut de solidarité nationale (voir la loi du 18 juillet 2017 relative à

la création du statut de solidarité nationale, à l'octroi d'une pension de dédommagement et au remboursement des soins médicaux à la suite d'actes de terrorisme). La loi du 18/07/2017 précise que la victime directe est la victime qui se trouvait sur les lieux de l'acte de terrorisme au moment de celui-ci.



## CROATIA

Victims of terrorism offenses in Croatian procedural legislation do not have a special legal status, i.e. victims of these criminal offenses have rights prescribed by the so-called general catalogue of victims' rights referred to in Article 43, paragraph 1 of the Criminal Procedure Code (Official Gazette No. 152/08, 76/09, 80/11, 121/11, 91/12, 143/12, 56/13, 145/13 152/14 and 70/17, hereinafter: CPC). Nevertheless, the CPC in Article 43a (3) prescribes that an individual assessment of the victim in appropriate way includes especially, inter alia, a victim of terrorism, thereby obliging the investigating body and the bodies, organizations and institutions for assistance and support to victims of criminal offenses to pay special attention to such victims.

Victims, as injured parties, have a particular status according to the Act on the responsibility for damage caused by terrorist acts and public demonstrations (OG No 117/03). According to the Article 4 the injured parties within the meaning of this Act are the persons to whom the damage has been caused, (by acts of terror), as well as persons to whom damage has been caused by preventing harmful acts or by providing assistance to the victims. The obligation to compensate damages under this Act exists irrespective of whether the mischief - doer was found, prosecuted or found guilty.

Victims of terrorism are comprised in a general definition of a victim in Article 87, point 25 of a Criminal Code (OG No 125/11, 144/12, 56/15, 61/15, 101/17, 118/18, hereinafter: CC), which entirely corresponds to the definition of a victim in Article 202, point 11 of CPC.

Article 87, point 25 of a CC reads as follows. "A victim of a criminal offense is a natural person who has suffered physical and mental consequences, property damage or substantial violation of fundamental rights and freedoms that are the direct consequence of a criminal offense. The victim of a criminal offense is also considered to be a spouse and an extramarital spouse, a life partner or an informal life partner and a descendant, and if they do not exist, a predecessor, the brother and sister of the person whose death was directly caused by a criminal offense, and the person whom he/she was obliged to support by law."



## CYPRUS

Cyprus has not adopted a specific legislation concerning the protection of victims of terrorist acts. However, the *Minimum Standards on the Rights, Support and Protection of Victims of Crime Law* (L. 51 (I)/2016), which came into force in April 2016, harmonizes Directive 2012/29/EE establishing inter alia, minimum rights, support and protection of victims of crime, also covers victims of terrorist acts.

According to article 2 of the L. 51(I)/2016 “victim of terrorist act” is defined as the person who has suffered an attack, whose ultimate purpose is to harm the society.



## DENMARK

There exist no such definition in the Danish legal system, because the Danish legal system does not differentiate victims of different kinds of crimes terminologically.

Depending on what kind of crime the victim has been exposed to or been subject of, the victim may be assigned a legal advocate, unless the victim refuses this option. The legal advocate can, amongst other things:

- Help, advise and guide the victim while the police are investigating the case and if the case goes to court later on.
- Help the victim get compensation – by calculating the victims claim for compensation and submitting it during the court proceedings and to the Criminal Injuries Compensation Board.
- Explain how the criminal justice process works and accompany the victim if they will have to testify in court as a witness.



## ESTONIA

Yes, § 3 (1<sup>5</sup>) of the Victim Support Act defines a victim of terrorism as:

- 1) a victim in criminal proceedings commenced on the elements of criminal offence provided for in § 237 of the Penal Code (act of terrorism);
- 2) a resident of the Republic of Estonia who would be presumed to be a victim in an act corresponding to the elements of a criminal offence provided for in § 237 of the Penal Code and committed in a foreign state, should the criminal proceeding be commenced in the Republic of Estonia.

In this context, § 37 of the Code of Criminal Procedure, which defines the word “victim” is also relevant:

- (1) A victim is a natural or legal person whose legal rights have been directly violated by a criminal offence aimed at the person or by an unlawful act committed by a person not capable of guilt. In the case of an attempt to commit a criminal offence, a person is a victim even if, instead of the legal rights attacked, such legal rights are violated the violation of which is



covered by the legal rights attacked. The state or another public authority is a victim only in the case it has a proprietary claim due to violation of its legal rights and the claim can be enforced in criminal proceedings. A natural person is a victim even in the case a criminal offence or an unlawful act committed by a person not capable of guilt caused the death of any person close to him or her and damage was caused to him or her as a result of the death.



## FINLAND

No. In Finnish case-law and legal literature, the concept of the injured party (victim) is broad. In Finnish legislation, the rights of the injured party do not apply only to persons who have suffered harm as a result of the offence. The rights of the injured party also apply to a person against whom the criminal offence has been committed (the bearer of the legal value protected by the criminal offence). The injured party may also be a legal person.



## FRANCE

*A titre liminaire, les dispositifs présentés ci-dessous valent pour les actes terroristes commis sur le territoire français, sans considération de la nationalité des victimes ou de leur lieu de résidence. En cas d'attentat commis à l'étranger causant des victimes françaises, un autre dispositif est mis en œuvre.*

En France, il n'existe pas de définition spécifique de « victime d'acte terroriste ». Du point de vue judiciaire, toute personne ayant subi un dommage causé par un fait générateur qualifié d'acte de terrorisme par la section antiterroriste du parquet de Paris est une victime du terrorisme.



## GERMANY

The term of "victim of a terrorist attack" is not explicitly defined in German law; rather, it is interpreted consistent with the notion of the solidarity of the State with those affected to promote their well-being. This means that the victims of a terrorist attack include not only directly injured and killed individuals, but in particular also bereaved persons and relatives of the injured, operational forces, first aid workers, eyewitnesses and those who have suffered financial damage.



## MONACO

Les victimes d'actes terroristes commis sur le territoire de la Principauté, leurs ayants-droits ainsi que les personnes de nationalités monégasques victimes de ces mêmes actes à l'étranger bénéficient d'un statut juridique leur garantissant une indemnisation par l'Etat. En effet, conformément à l'article 3 de la loi n° 1.318 du 29 juin 2006 sur le terrorisme, les « victimes d'actes de terrorisme commis

sur le territoire de la Principauté ou leurs ayants-droits et les personnes de nationalités monégasque victimes de ces mêmes actes à l'étranger sont indemnisées par l'Etat ». Ce texte ne définit toutefois pas la notion de « victimes d'actes de terrorisme ».



## MONTENEGRO

In our law Montenegro doesn't have a special definition of the term „victim of terrorist act“.

The term “victim” is defined in the Article 142 of the Criminal Code of Montenegro. „A victim is defined as a person who has suffered physical or emotional harm, property damage or violation of human rights and freedoms as a result of a crime, which is prescribed by law as a crime.”

Furthermore, the Law on Compensation of Victims of Violent Crimes<sup>39</sup> in the Article 3 stipulates that : “Victim of a violent crime (hereinafter referred to as “the victim”) means a natural person who has died or sustained serious bodily injury or serious impairment of physical or mental health as a result of the crime.”

“Victim also means a natural person who has died or sustained serious bodily injury or serious impairment of physical or mental health as a result of the crime referred to in Article 2, paragraph 1, clause 1 of this Law, even if such person was not the target of the crime.”

“Victim also means a natural person who has died or sustained serious bodily injury or serious impairment of physical or mental health as a result of the crime in the following cases:

- while attempting to prevent the commission of a violent crime;
- while helping the police to apprehend a perpetrator of a violent crime;
- while providing assistance to the victim of a violent crime.”



## NETHERLANDS

In the legal system of the Netherlands there is a general definition of victim, established in the Code of Criminal Procedure (*Wetboek van Strafvordering*) and based on the EU directive on victim's rights (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).

Furthermore, terrorists crimes have been defined in the Criminal Code (*Wetboek van Strafrecht*), based on the EU-directive on combatting terrorist crimes

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<sup>39</sup> This Law shall be implemented from the day when Montenegro become a member of European Union .

(Directive (EU) 2017/541 of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA).



## **NORTH MACEDONIA**

There are no specific legal provisions on victims of terrorist acts in the Republic of North Macedonia.

The rights of victims in the criminal procedure are regulated in the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia" No. 150/10, 100/12, 142/16 and 198/18). This law was enacted in December 2010 and started to be applied from December 2013. A new law on criminal procedure is in the final stage of preparations, which will soon be submitted to the government for approval. In the draft version of the new Law on Criminal Procedure, the provisions for victims have been significantly improved and they are in line with the international standards, in particular with the Directive 2012/29 / EU (Victims' Rights Directive).

In Article 21 of the Law on Criminal Procedure, the terms "victim" and "injured" are defined as follows:

- A victim of a criminal offense shall be any individual who has suffered some kind of damage, including physical or mental injuries, emotional suffering, property loss or any other violation or endangerment of his or her rights and interests, as a consequence of a criminal offense that has been committed and
- An injured party, apart from the victim shall also be any other individual whose personal or property rights have been violated or endangered by a criminal offense and who participates in the criminal procedure by joining the criminal prosecution or for the purpose of effectuating a property loss claim.



## **NORWAY**

A definition of "victim of terrorist act" does not exist in our legal system. Victims of terrorist acts have the same legal status as other victims of crime.



## **POLAND**

Victims of terrorist acts are treated as victims of other aggravated or violent criminal acts, they do not have any particular legal status. They are entitled to the status of victim in the criminal proceedings, which is uniform in the case of all crimes. A general definition of victim of crime, as contained in Article 49(1) of the Code of Criminal Procedure, applies to them.

The requirements arising from EU law have been fully transposed into Polish law, including those deriving from:

- Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime and replacing Council Framework Decision 2001/220/JHA,
- Directive of the European Parliament and of the Council (EU) 2017/541 of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA.

In the Polish legal system there is no definition of a “victim of terrorist act”.



## PORTUGAL

**The victims of terrorism have no particular legal status in Portugal.**

NO.

However, it should be noted that the crime of terrorism is classified as a particularly violent crime and therefore, according to Article 67-A (3) of the Code of Criminal Procedure, victims of violent crime and particularly violent crime (as foreseen in Article 1 (j) and (l) of the same Code), are considered to be especially vulnerable, for the purposes of paragraph 1 (b) of that provision (definition of especially vulnerable victims).

For the victims of terrorism, as to other crimes, the Statute of Victims, approved by Law no. 130/2015, of 4 September, applies. This Statute contains a set of measures designed to ensure the protection and promotion of the rights of victims of crime by transposing Directive 2012/29/EU, of 25 October.



## SPAIN

Yes. The national legal framework is based on two main legislation pieces:

- Act 29/2011 of 22 September, on the Recognition and Comprehensive Protection of Victims of Terrorism and
- Royal Decree 671/2013 of 6 September adopting the implementing regulations for Act 29/2011 of 22 September on the Recognition and Comprehensive Protection of Victims of Terrorism

The Act's timeframe is extended to apply to events occurred since 1 January 1960.

The territorial scope comprises attacks committed on Spanish territory, or under Spanish jurisdiction, protecting victims of all nationalities. This general rule of territoriality is completed with the principle of citizenship, which leads to the protection of all Spanish victims of attacks outside of Spain, regardless of

whether “Spanish interests” are targeted or are perpetrated by groups normally operating in Spain, whether the attacks committed do not meet the mentioned characteristics.

Furthermore, it must be noted that the aforementioned Regulation also offers coverage for participants in peace and security operations who are part of Spain’s contingents abroad and are targets of a terrorist attack.

This legal framework is completed with the recognition of public pensions in case of death and permanent disability. These extraordinary pensions derived from terrorist attacks are twice as the ordinary ones.

In addition, several other Autonomous Regions have adopted regional legislation to improve the levels of protection of Spanish national regulation and based on the main principles of the national legislation.

See updated list on the website of the Ministry for Home Affairs:  
<http://www.interior.gob.es/web/servicios-al-ciudadano/ayudas-y-subsidencias/a-victimas-de-actos-terroristas/normativa-basica-reguladora#normativa%20basica%20autonomica>

Spain has suffered more than 10,000 direct victims of terrorism, who were killed, injured or kidnapped. This dramatic experience has led us to the establishment of a complete scheme of protection for victims of terrorism, which could be taken as a model for other countries nowadays, when the global terrorist threat is growing and terrorist attacks occur everyday throughout the world.



## SWEDEN

No, there is no such legal definition.



## SWITZERLAND

Le droit suisse ne connaît pas de catégories spécifiques de victimes. Dans cette mesure, toutes les victimes d'infractions au sens du code pénal ayant subi une atteinte d'une certaine intensité dans leur intégrité physique, psychique ou sexuelle ont le droit aux prestations prévues par la loi fédérale sur l'aide aux victimes d'infractions si elles en remplissent les conditions (LAVI, RS 312.5; art. 1 al. 1 LAVI).

***b. Have relatives and dependents of those who have suffered bodily or psychological damage due to a terrorist act, recognised the status of victim?***

 **AUSTRIA**

Yes: According to § 65 subpara. 1 lit b **CCP** the spouse, registered partner, domestic partner, relatives in a direct ancestral line, siblings and other dependents of a person, whose death might have been caused by a criminal offence, or other relatives who were witnesses of the crime are recognized the status of victim.

§ 1 of the Victims of Crime Act provides support also for dependents and relatives (as well as EU citizens).

 **BELGIUM**

Dans le cadre de l'aide financière, la Division Terrorisme peut octroyer une aide financière aux proches d'une victime décédée et aux proches d'une victime non décédée. La notion de 'proches' est définie comme :

- Les proches successibles jusqu'au deuxième degré inclus ;
- Les proches alliés jusqu'au même degré inclus ou ;
- Les personnes qui vivaient dans un rapport familial durable avec elle.

Les proches ont également la possibilité sous certaines conditions d'obtenir le 'statut de solidarité nationale'. La loi du 18/07/2017 concernant le statut de solidarité nationale reconnaît comme victime indirecte la victime qui est soit un successible au sens de l'article 731 du code civil jusqu'au deuxième degré inclus d'une victime directe, soit un allié de la victime directe jusqu'au même degré inclus ainsi que la personne qui peut prouver un rapport affectif durable avec la victime directe au moment du fait dommageable. Les victimes indirectes peuvent obtenir le statut de solidarité nationale ainsi que le remboursement des soins psychologiques liés à l'attentat. Parmi les victimes indirectes, il y a les ayants droit: : le conjoint survivant ou le cohabitant légal ou de fait survivant d'une victime directe décédée et les enfants à charge au moment de l'acte de terrorisme de la victime décédée. Les ayants droit ont droit au statut, au remboursement des soins psychologiques liés à l'attentat et à une pension de dédommagement d'ayants droit.

 **CROATIA**

Pursuant to Article 87, point 25 of the CC and Article 202, item 11 of the CPC, the victim of a criminal offense is also considered to be a spouse and an extramarital spouse, a life partner or an informal life partner and a descendant, and if they do not exist, a predecessor, the brother and sister of the person whose death was directly caused by a criminal offense, and the person whom he/she was obliged to support by law (the so-called "indirect victim").

This distinction between "direct" and "indirect" victims of criminal offenses is one of the requirements of Directive 2012/29 / EU of the European Parliament and of the Council of 25 October 2012 on the establishment of minimum standards for the rights, support and protection of victims of criminal offenses and on substitution of Council Decisions 2001/220 / PUP and it presents a novelty introduced by the Act on Amendments to the Criminal Procedure Act (OG 70/17) and the Act on Amendments to the Criminal Code (OG 118/18).



## CYPRUS

According to article 10(2)(b) of the same law, members of the victim's family receive the same support services as the victims, even though they are not defined as victims of terrorist acts.

For the purposes of harmonizing Directive (EU) 2017/541 on combating terrorism, the Ministry of Justice and Public Order has drafted a bill, which includes provisions on protection of, support to and rights of victims of terrorism. The bill is pending at the Law Office of the Republic for vetting.



## DENMARK

The relatives and dependents of the victim does not have the status of victim in a legal context, but if the victim has died as a consequence of the crime, the close relatives will have a number of rights. "Close relatives" are those closest to the deceased, such as a spouse, a partner or a child.

Some of the rights are that the police or the prosecution service must inform the close relatives about the option for following the criminal case. The relatives must also be notified if formal charges are brought in the case. To bring formal charges means that the case will be brought before the court. If the relatives request so, they must be told where and when any court hearings in the case are being held. Generally, in such cases, the close relatives will also be entitled to a legal advocate.



## ESTONIA

The relatives and dependants are victims in case the terrorist act caused the death of any person close to him or her and damage was caused to him or her as a result of the death (as per § 37 (1) of the Code of Criminal Procedure).



## FINLAND

No. However, if the victim has died as a result of the offence, the rights of a victim are afforded to the family members of the victim. The family members cover the spouse, the children, the parents and the siblings of the victim. The spouse may also be the same-sex partner of the victim. However, it is provided in our legislation which family members have priority to exercise the rights of a victim.



## FRANCE

Selon l'article 2 du code de procédure pénale, « *L'action civile en réparation du dommage causé par un crime, un délit ou une contravention appartient à tous ceux qui ont personnellement souffert du dommage directement causé par l'infraction. (...)* ». En outre, l'article 3 de ce même code dispose que l'action civile « (...) *sera recevable pour tous chefs de dommages, aussi bien matériels que corporels ou moraux, qui découleront des faits objets de la poursuite.* ».

Selon la jurisprudence constante de la Cour de cassation, peuvent prétendre à une indemnisation tant la victime directe d'une infraction que l'ensemble des personnes ayant subi un préjudice causé par l'infraction, ce qui inclut les familles et les proches des victimes directes (voir, par exemple, Crim. 9 février 1989, n° **87-81359, publié au Bulletin** ; Crim. 23 mai 1991, n° **90-83280, publié au Bulletin**). Ces dispositions générales sont applicables en matière de terrorisme.

Pour que les victimes puissent se constituer parties civiles, il suffit que la juridiction admette comme possibles l'existence du préjudice allégué et la relation directe avec l'infraction poursuivie (lien de causalité).



## GERMANY

Yes, relatives and dependents may be recognised as terror victims and may claim corresponding rights. For example, bereaved relatives of individuals killed by a terrorist attack may receive hardship payments from the German federal budget. The hardship payments for bereaved relatives were retroactively increased for the year 2018.

Relatives of an individual killed by a terrorist attack have certain rights in criminal proceedings as well. For example, pursuant to section 395 (2), no. 1 of the Code of Criminal Procedure (*Strafprozessordnung* – StPO) they may join criminal proceedings as private accessory prosecutors, with the effect that they are equipped with their own procedural rights, such as the right to pose questions, make statements, or challenge judges or experts (cf. section 397 StPO). Surviving relatives of an individual killed by a criminal act also have the right to have victims' counsel appointed for them free of charge.





## MONTENEGRO

No.



## NETHERLANDS

Relatives and dependents are included in the definition of victim.



## NORWAY

Relatives and dependents of those who have suffered bodily or psychological damage due to a criminal act, for example terrorism, are not recognised as victims in criminal proceedings. However, if the victim of crime is dead, many rights in relation to the criminal case are given to surviving family members, cf. The Criminal Procedure Act chapters 8 a and 9 a. The surviving family members are granted rights such as the right to information on the progress of the case and the investigation, the right to be present in the criminal court proceedings and the right to pursue civil claims.



## POLAND

As a rule, based on Article 49(1) of the Code of Criminal Procedure, a natural or legal person whose legal interest has been directly violated or threatened by a terrorist offence is considered a victim (an aggrieved party).

Third parties, such as a legal representative or a person in charge of an aggrieved party, may perform acts in the criminal proceedings, provided that the aggrieved party is a minor or incapacitated person.

In the case of the victim's death (e.g. as a result of a terrorist attack), the rights that would have been granted to that person may be performed by persons being his/her next of kin or dependents, and in the absence of them or non-disclosure - a prosecutor acting *ex officio* (pursuant to Article 52(1) of the Code of Criminal Procedure).

The term "next of kin" is defined in Article 115(11) of the Criminal Code, covering a spouse, an ascendant, a descendant, siblings, a person related by affinity in the same line or step, a person remaining in the adoption relationship or his/her spouse, as well as a person remaining in cohabitation.



## PORTUGAL

YES. The concept of victim also includes the nearest family or persons in charge of the direct victim and persons who have suffered injury when intervening to provide assistance to victims which need the assistance or to prevent victimization.



## SPAIN

Spanish definition of “*victim of terrorism*”, according to Act 29/2011, and status recognized to relatives and dependents is established in Article 4 of Act 29/2011, that lists the persons entitled to the rights and benefits regulated there including:

- Deceased persons or persons having suffered physical or psychological harm as a result of terrorist acts

- In the event of death of the victims, article 17 establishes a priority order of the persons entitled to financial assistance or rights on the grounds of family ties, cohabitation or dependency relationship with the deceased person. The order of priority is as follows:

- the spouse of the deceased, if they are not legally separated, or the cohabitee having lived for, at least, two years with the deceased immediately before his/her death, unless they have children, in which case mere cohabitation shall suffice; and the children of the deceased;
- in the absence of the above, parents, grandchildren, siblings and grandparents of the deceased shall be beneficiaries, in successive order of mutually exclusive precedence;
- in the absence of the above, the children of the cohabitee, as well as the minors in the permanent care of the deceased, if economically dependent thereon.

- Persons having suffered material damage and threatened and kidnapped persons. In particular, article 5 for threatened persons includes: persons who, pursuant to Article 3 bis of the Act<sup>40</sup>, accredit suffering situations of direct and repeated threats or coercion by terrorist organizations shall be the subject of special attention by competent Public Administrations.

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<sup>40</sup> Article 3 bis. Requirements for recognition of assistance and benefits provided for in this Act

1. Individuals meeting at least one of the following conditions shall be considered beneficiaries of the assistance and benefits provided for in this Act.

a) Persons having been entitled on the basis of a final judgement to compensation as civil liability derived from crimes and damages provided for in this Act.

b) When, in the absence of a final decision, the corresponding judicial formalities have been carried out, or criminal proceedings to prosecute the crimes have been initiated. In these cases, the status of victim or entitled party, amount of damages, nature of acts or events causing the damages and other requirements legally required shall be attested before the competent body of the General State Administration by any means allowed by law.

2. Granting of assistance and benefits recognised in this Act shall be based on the principles set forth in the European Convention on the Compensation of Victims of Violent Crimes.



## SWEDEN

There is no legal definition of victims of crime. Relatives of victims of crime may have the status of joint injured party or a party in legal proceedings under certain circumstances (see answer to question 7).



## SWITZERLAND

La LAVI prévoit également que les proches des victimes ont droit au soutien prévu par la loi (art. 1 al. 2 LAVI).

**2. First urgent assistance: is it ensured in your country the availability of appropriate (medical, psychological, social and material) emergency assistance free of charge to them?**



## AUSTRIA

Yes: Medical and psychological help is offered according to the Victims of Crime Act.



## BELGIUM

En première ligne et dans l'urgence les victimes sont prises en charge par les policiers et les services d'assistance policière de la police locale et de la police fédérale. Cette prise en charge est gratuite. Il s'agit d'une première aide psychosociale et la première orientation au niveau de certains aspect pratiques. L'accord de principe entre la Police Fédérale et la Commission Permanente de la police locale en ce qui concerne la collaboration entre le DVI et les services d'assistance policière aux victimes du 27 décembre 2018, prévoit que les proches de personnes décédées sont pris en charges par les services d'assistance policière de la police locale et de la police fédérale.

### Aide financière - avance

La Commission d'aide financière aux victimes d'actes intentionnels de violence peut octroyer une aide financière d'urgence aux victimes d'actes de terrorisme. Ce système d'aide d'urgence est nommé depuis les récentes modifications législatives 'une avance'.

Le système d'aide financière des victimes de terrorisme vient récemment d'être modifié suite à la publication le 8 février dernier des lois suivantes :

- Loi du 15 janvier 2019 modifiant la loi du 1er août 1985 portant des mesures fiscales et autres en ce qui concerne l'aide aux victimes du terrorisme ;
- Loi du 3 février 2019 modifiant la loi du 1er août 1985 portant des mesures fiscales et autres, en ce qui concerne les compétences de la commission pour l'aide financière aux victimes d'actes intentionnels de violence et aux sauveteurs occasionnels pour les victimes de terrorisme.

Ces lois prévoient entre autres l'installation d'une Division Terrorisme au sein de la commission, des procédures simplifiées et accélérées pour les victimes de terrorisme, une augmentation du montant de l'avance jusqu'à 125.000 €, la création de deux nouveaux postes de dommage un pour les frais d'avocat et un pour les frais de déplacement et de séjour (avec un régime transitoire les victimes du terrorisme peuvent introduire des demandes, dans un délai d'un an, afin de se faire indemniser pour ces postes de dommage).

### Statut de solidarité nationale

Ces lois élaborent également le statut de solidarité nationale pour les victimes de terrorisme 'non-résidents' (victimes qui n'ont ni la nationalité belge ni leur lieu de résidence habituelle en Belgique) dans la loi et pas par arrêté royal comme initialement prévu par la loi du 18 juillet 2017 relative à la création du statut de solidarité nationale, à l'octroi d'une pension de dédommagement et au remboursement des soins médicaux à la suite d'actes de terrorisme.

La demande d'aide financière et la demande du statut de solidarité nationale peuvent être faites dans une seule et même requête adressée à la Commission d'aide financière, qui transfèrera cette dernière automatiquement à la Cellule Victimes civiles de guerre et de terrorisme du Service fédéral des Pensions (par la Suite SFP). Lorsqu'une telle demande arrive à la Cellule des victimes d'actes de terrorisme (SFP), un accusé de réception est envoyé directement à la victime en mentionnant toujours son numéro de dossier auprès du SFP et la personne de référence au sein de la Cellule qui pourra répondre à toutes les questions et demandes de la victime pour tout ce qui concerne l'octroi du statut et de la pension de dédommagement, depuis le début de la procédure jusqu'à la fin de celle-ci.

(voir [https://www.pdos-sdpsp.fgov.be/fr/warvictims/warvictims\\_2283.htm](https://www.pdos-sdpsp.fgov.be/fr/warvictims/warvictims_2283.htm)).

Le jour même de la publication de ces lois, les pages web de la Commission ont été actualisées suivant cette nouvelle législation et retravaillées pour mieux répondre aux besoins des victimes

([https://justice.belgium.be/fr/themes\\_et\\_dossiers/que\\_faire\\_comme\\_victime/indemnisation](https://justice.belgium.be/fr/themes_et_dossiers/que_faire_comme_victime/indemnisation)).

La Commission d'aide financière n'a pas de mission d'accompagnement des victimes au niveau médical, psychologique, social....

Ce rôle est dévolu au SPF Santé Publique durant la phase aiguë ainsi qu'aux Communautés en charge de l'accueil des victimes et de l'aide aux victimes dans la phase post-aiguë. Les interventions des acteurs du terrain dans la phase aiguë lors d'un attentat terroriste sur le plan médical, psychologique, social et matériel sont réglées via le plan d'intervention psychosociale, dit le PIPS. Un

groupe de travail au sein de la Taskforce Interfédérale Victimes de terrorisme, sous la coordination du SPF santé Publique a finalisé une note de vision pour tous les acteurs psycho-sociaux impliqués : Il s'agit notamment d'accords de coopération concrets (phase aiguë (PIPS) - transfert – phase post- aiguë) et d'engagements de chaque partenaire pour assurer une bonne formation du personnel en fonction de la mission spécifique. Il y a aussi une concrétisation de la répartition des tâches dans l'accompagnement psychologique pendant le processus d'identification. Le réseau psychosocial est maintenu. Il existe également un accord de principe sur la création d'un centre d'expertise au sein du SPF Santé publique.



## CROATIA

Pursuant to the Article 43 of the CPC, the court, the State Attorney's Office, the investigator and the police are obliged already when taking the first action in which the victim participates to inform him or her, in an understandable manner to him/her, about the rights which he or she is entitled to under this law.

To all victims of criminal acts, including victims of terrorism, belong the following rights:

- 1) the right to access services providing support to victims of criminal offences;
- 2) the right to efficient psychological and other professional assistance and support of the body, authority or institution providing assistance to victims of criminal offences as provided for by law;
- 3) the right to protection from intimidation and retaliation;
- 4) the right to protection of the dignity of the victim when testifying;
- 5) the right to be heard without unjustified delay after the complaint with regard to a criminal offence has been made and to be further heard only insofar as this is necessary for the purposes of the criminal proceeding;
- 6) the right to be accompanied by a person enjoying his/her confidence when taking part in any acts;
- 7) the right that medical interventions towards a victim are undertaken to the smallest extent and only where strictly necessary for the purposes of the criminal proceedings;
- 8) the right to file a motion for prosecution and a private action pursuant to the provisions of the Criminal Act, the right to participate in the criminal proceeding as an injured party, the right to be informed of the dismissal of the criminal complaint and of the state attorney dropping the criminal charge, and the right to take over criminal prosecution in lieu of the state attorney;
- 9) the right to be informed by the state attorney of the acts performed as a result of his/her complaint and the right to complain to a senior state attorney;
- 10) the right to be informed without unjustified delay, at his/her request, of the release from custody or the investigative prison, the defendant having fled or the convicted person having been released, and of the measures taken for the purposes of his/her protection;

- 11) the right to be informed, at his/her request, of any decision finally terminating a criminal proceeding;
- 12) any other rights provided for by the law.

Where the victim of a criminal offence punishable by imprisonment for more than five years has suffered severe harm as a result of a criminal offence, he/she is entitled to the professional assistance of an advisor appointed at government expense when bringing a civil claim.

The court, the State Attorney's Office, the investigators and the police shall treat the victim in a considerate manner and shall make sure that he/she has understood the information given to him/her about his/her rights.

If, in relation to a victim of terrorism, special protection needs have been identified based on the individual assessment carried out; such a victim has the following additional rights:

- 1) before being questioned, to counselling services at government expense;
- 2) to be questioned at the police and the state attorney's by a person of the same sex and that in case of any further questioning he/she be questioned, where possible, by that same person;
- 3) to refuse to answer any strictly private questions not related to the criminal offence;
- 4) to demand to be questioned via an audio-video link;
- 5) to the confidentiality of personal information;
- 6) to demand that the hearing be closed to the public.

Pursuant to the Social Welfare Act, social welfare shall be granted in a manner ensuring a timely recognition of the beneficiary's needs and provision of social services, with the aim of preventing the onset or development of conditions threatening his security and providing for the essentials for living as well as to actively participate in the society.



## CYPRUS

According to article 10 of the above law, the Social Welfare Services are directly responsible for providing free and confidential support services to victims, according to their needs.



## DENMARK

In general, when serious crimes are committed in Denmark relevant healthcare professionals will be sent to the scene of the crime to ensure competent, fast and relevant help to victims of crimes and to people who has witnessed the crime.

Such emergency assistance is free of charge for the victims. Depending on the specific circumstances of the crime committed and the status of the victims, such emergency assistance may include medical and psychological assistance.



## ESTONIA

Necessary free of charge psychological assistance (as long as necessary) is available to victims of terrorism pursuant to § 1(2) 7) and § 1 (2<sup>1</sup>) of the Victim Support Act.

Pursuant to § 6 of the Health Services Organisation Act, every person in the territory of the Republic of Estonia has the right to receive emergency care. Emergency care provided to a person not covered by health insurance shall be paid for from the budget of the Estonian Health Insurance Fund on the bases, conditions and pursuant to the procedure provided for in the list of health services of the Estonian Health Insurance Fund.

In addition, victims of terrorism are also entitled to free of charge counselling and assistance in communicating with state and local government authorities and legal persons (as per § 1 (2) 1) and 2) of the Victim Support Act).



## FINLAND

Under section 12 of the Social Welfare Act (1301/2014), every person residing in a municipality has, in an emergency situation, the right to receive social services based on their individual needs in a way which does not endanger their right to receive indispensable subsistence and care.

Under section 50 of the Health Care Act (1326/2010), urgent medical care, including urgent oral health care, mental health care, substance abuse care, and psychosocial support shall be provided for patients regardless of their place of residence. According to the same section, urgent cases include cases involving an injury, a sudden onset of an illness, an exacerbation of a long-term illness, or a deterioration of functional ability where immediate intervention is required and where treatment cannot be postponed without risking the worsening of the condition or further injury.

Section 5 of the Act on Client Charges in Healthcare and Social Welfare (734/1992) defines cost-free social welfare and health services. Under section 5(1)(2) of the Act, cost-free health services include, among others, emergency medical care organized on the basis of section 40 of the Health Care Act, excluding transportation of patients related to such care, and care in a unit of psychiatric outpatient care, excluding related partial maintenance treatment. Psychosocial support provided as part of healthcare, excluding referral to psychosocial support in emergency medical care and such support provided in a unit of psychiatric outpatient care, is subject to a charge.

- **La Cellule interministérielle d'aide aux victimes (CIAV)**

[L'instruction interministérielle du 12 novembre 2015](#) relative à la prise en charge des victimes d'actes de terrorisme, révisée le 13 avril 2016, le 10 novembre 2017 puis [le 11 mars 2019](#), prévoit qu'en cas d'acte de terrorisme de grande ampleur commis sur le territoire national, le Premier ministre peut décider d'ouvrir une CIAV. Constituée d'équipes pluridisciplinaires et interministérielles (avec des représentants des ministères chargés de l'Intérieur, de la Santé, de la Justice et de l'Europe et des Affaires étrangères, ainsi que d'un représentant du Fonds de Garantie des Victimes d'actes de Terrorisme et d'autres Infractions (FGTI) et d'un magistrat de la section antiterroriste du parquet de Paris), la CIAV est hébergée par le Centre de crise et de soutien (CDCS) du ministère de l'Europe et des Affaires étrangères. Le directeur de la CIAV, également directeur du Centre de crise et de soutien, peut faire appel aux associations d'aide aux victimes et aux associations de victimes conventionnées par le ministère de la Justice pour intégrer les équipes de la CIAV.

Selon les termes de l'instruction interministérielle, la CIAV « *centralise en temps réel l'ensemble des informations concernant les victimes, informe et accompagne leurs proches et coordonne l'action de tous les ministères intervenants, en relation avec les associations et le parquet* ».

La CIAV a notamment pour mission d'informer les victimes et leurs familles sur le sort de leurs proches, et de s'assurer de leur prise en charge par les services compétents (établissements de santé, cellule d'urgence médico-psychologique, préfecture, association d'aide aux victimes).

Par ailleurs, une [plateforme téléphonique](#) est activée par la CIAV, et son numéro est diffusé auprès du grand public lors de la phase de crise. La CIAV communique également aux victimes ainsi qu'à leurs proches, des informations sur les droits et les démarches à effectuer.

De plus, la CIAV établit « *sous l'autorité du préfet de département en tant que Directeur des opérations, un lieu d'accueil unique : le Centre d'accueil des familles pour les victimes et/ou leurs proches afin de permettre de se signaler, d'être informés de la situation de la personne qu'ils recherchent et de leurs droits* ». La présence d'associations d'aide aux victimes et d'associations de victimes, de professionnels de l'urgence médico-psychologique et de représentants de l'organisme d'indemnisation des victimes de terrorisme facilite grandement la diffusion de l'information sur les droits des victimes et de leurs proches ainsi que sur les premières démarches à effectuer. Enfin, la CIAV établit une présence dans les structures de médecine légale pour l'accueil et l'accompagnement des familles, une fois la victime formellement identifiée et le décès annoncé.



En cas d'attentat commis en province ou en outre-mer, la CIAV dépêche auprès du préfet compétent une équipe déléguée afin de l'assister dans l'accompagnement et l'aide aux victimes et à leurs proches et dans la mise en place du lieu d'accueil des victimes et de leurs proches.

Lorsque le dispositif interministériel de la CIAV n'est pas activé (dans le cas d'un attentat ayant causé un faible nombre de victimes), l'instruction interministérielle relative à la prise en charge des victimes d'actes de terrorisme prévoit que le ministère de la Justice est chargé de coordonner l'action interministérielle en matière d'aide aux victimes. En effet, outre le fait d'être destinataire des informations relatives aux victimes, le ministère de la Justice « *s'assure de la prise en charge des victimes et de leurs familles par les services compétents (préfectures, collectivités, [cellules d'urgence médico-psychologiques], établissements de santé, associations d'aide aux victimes) et peut proposer des dispositifs aux autorités locales...* ». Ces dispositifs consistent notamment à proposer la mise en place de lieux d'accueil (notamment du Centre d'accueil des familles), mais également d'un numéro dédié d'aide aux victimes (le 116 006, plateforme téléphonique nationale d'écoute et d'orientation des victimes).

#### - *La prise en charge médicale des victimes*

Il existe, par ailleurs, un dispositif d'aide médicale d'urgence qui comprend la prise en charge des blessés et les soins médico-psychologiques à toute personne française ou étrangère victime d'un acte de terrorisme sur le sol français. Cette aide est entièrement gratuite, sa prise en charge étant assurée par l'assurance maladie, que ce soit durant la période de crise ou après. Ses modalités sont décrites dans le guide des victimes de terrorisme, disponible sur le site Internet du Gouvernement<sup>41</sup>.

Placé sous l'autorité du commandant des opérations de secours (COS), le dispositif de secours et de soins médicaux peut prévoir la mise en place d'un ou plusieurs postes médicaux avancés (PMA), composés de professionnels de santé et de secouristes. L'initiation du parcours de soin de la victime, et notamment son transfert vers un établissement de santé, est assurée par le service d'aide médical d'urgence (SAMU) dans le cadre de la régulation médicale.

L'agence régionale de santé (ARS) assure l'adaptation de l'offre de soin si nécessaire, ainsi que la coordination de la prise en charge médicale des victimes au niveau régional.

En parallèle à la prise en charge des victimes blessées physiques dans les PMA, un dispositif de prise en charge de l'urgence médico-psychologique est mis en place.

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<sup>41</sup> Accessible à l'adresse suivante : <https://www.gouvernement.fr/guide-victimes>.

Alerté par le SAMU<sup>42</sup>, la cellule d'urgence médico-psychologique (CUMP) a notamment pour mission de mettre en place un (ou des) poste(s) d'urgence médico-psychologique (PUMP) afin de prodiguer des soins médico-psychologiques immédiats aux victimes et à toutes autres personnes impliquées dans l'évènement. Elle peut, le cas échéant, faire procéder à leur évacuation, après régulation du SAMU, vers les établissements de santé.

Un référent est chargé, en lien avec le SAMU territorialement compétent, de coordonner l'activité et les moyens de la CUMP en lien avec l'ARS pour l'organisation de la prise en charge médico-psychologique. Afin d'optimiser les prises en charge initiales, les professionnels de la CUMP assurent la coordination des autres acteurs contribuant à la prise en charge au plan médico-psychologique.

L'ARS élabore le volet d'urgence médico-psychologique dans le cadre du dispositif ORSAN (organisation de la réponse du système de santé en situations sanitaires exceptionnelles) avec l'appui de la CUMP régionale. Ce volet est destiné à assurer la mobilisation des CUMP de la région au bénéfice d'une CUMP départementale lors d'un évènement dépassant ses capacités propres de réponse. L'ARS assure la mise en œuvre et la coordination du dispositif d'urgence médico-psychologique.

En tant que de besoin, le ministère chargé de la santé mobilise le réseau national en lien avec l'ARS compétente.

Le numéro d'appel ouvert aux victimes est communiqué aux personnes prises en charge par les CUMP.

- *La prise en charge des premiers besoins*

Dès la survenance d'un acte de terrorisme, le procureur de la République de Paris informe le FGTI des circonstances de l'évènement et de l'identité des victimes décédées et des victimes blessées inconscientes, dès lors qu'elles auront été formellement identifiées.

Le FGTI dispose des éléments recueillis sur les victimes et de la liste des personnes blessées conscientes ou choquées hospitalisées, qui ont été enregistrées par les établissements de santé à l'aide d'un système d'information dédié. Cette transmission s'effectue après le temps nécessaire à la consolidation des données d'identification par les services relevant du ministère chargé de la santé.

Enfin, toute personne non recensée dans les listes précitées qui s'estime victime de l'acte de terrorisme peut saisir directement le FGTI. L'instruction de ces demandes s'inscrit dans le temps nécessaire aux vérifications liées à l'établissement de la qualité de victime.

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<sup>42</sup> Voir [l'instruction n° DGS/VSS2/2017/7 du 6 janvier 2017 relative à l'organisation de la prise en charge de l'urgence médico-psychologique](#).

- *La prise en charge des soins*

Les victimes d'un acte de terrorisme bénéficient au sein de leur régime d'assurance maladie, d'une prise en charge dérogatoire pour tous les frais de santé directement liés à l'acte de terrorisme conformément aux dispositions du chapitre 9 du titre 6 du livre I<sup>er</sup> du code de la sécurité sociale.

Cette prise en charge dérogatoire prend fin deux mois après la présentation de l'offre d'indemnisation du FGTI ou au terme d'un délai de trois ans, si aucune procédure d'indemnisation n'est en cours (cette indemnisation ayant vocation à couvrir les éventuels restes à charge liés aux dépenses à venir). Toutefois, elle peut, sous certaines conditions, être prolongée au bénéfice des personnes susceptibles de bénéficier d'une pension d'invalidité attribuée par le ministère chargé des armées aux victimes d'actes de terrorisme.

Le FGTI informe la caisse nationale de l'assurance maladie des travailleurs salariés (CNAMTS) de la date de la notification de sa décision relative à l'indemnisation de la victime.

Les victimes et leurs proches parents bénéficient par ailleurs de la prise en charge des consultations de suivi psychiatrique rendues nécessaires à la suite de l'acte de terrorisme conformément aux dispositions du chapitre 9 du titre 6 du livre I<sup>er</sup> du code de la sécurité sociale.

- *Les droits spécifiques des victimes d'acte de terrorisme*

En premier lieu, les victimes d'actes de terrorisme commis depuis le 1<sup>er</sup> janvier 1982 peuvent se voir ouvrir droit à pension militaire d'invalidité et bénéficier des dispositions du code des pensions militaires d'invalidité et des victimes de guerre (CPMIVG) applicables aux victimes civiles de guerre.

A ce titre, elles peuvent bénéficier de l'action sociale et de l'assistance administrative des services de proximité de l'office national des anciens combattants et victimes de guerre (ONAC-VG). Etablissement public placé sous la tutelle du ministère chargé des armées, l'ONAC-VG a pour mission d'assurer à ses ressortissants la protection et l'aide matérielle qui leur sont dus au titre de la reconnaissance de la Nation.

L'ONAC-VG participe à l'information des victimes. Il assure un accompagnement dans les démarches administratives, notamment les demandes de pensions militaires d'invalidité et les procédures d'adoption en qualité de pupille de la Nation. Il peut apporter un soutien financier à ses ressortissants (secours, prise en charge partielle de frais de reconversion professionnelle, aides financières ponctuelles, etc.).

L'ONAC-VG est également chargé de la protection, du soutien matériel et moral des enfants adoptés par la Nation. Le statut de pupille de la Nation peut être accordé par jugement du tribunal de grande instance, aux enfants des victimes décédées ou blessées dans l'incapacité de pourvoir à leurs obligations et à leurs charges de famille et aux victimes ouvrant droit à pension âgées de moins de 21

ans à la date d'introduction de la demande. Cette protection prend des formes diverses : aide aux études, aides à la vie quotidienne, etc.

En deuxième lieu, les successions des personnes décédées du fait d'actes de terrorisme ainsi que les successions des personnes décédées des conséquences directes de ces actes dans un délai de trois ans à compter de leur réalisation (article 796-I-7° du code général des impôts) sont exonérées de droits de mutation par décès. Pour les successions ouvertes à compter du 1<sup>er</sup> janvier 2015, cette exonération s'applique à l'ensemble des héritiers et légataires du défunt.

L'article 796 bis-I de ce même code prévoit également que les dons en numéraire reçus par une personne victime d'un acte de terrorisme, au sens du I de l'article 9 de la loi n° 86-1020 du 9 septembre 1986 relative à la lutte contre le terrorisme, sont exonérés de droit de mutation à titre gratuit.

Si la victime est décédée du fait de l'acte de terrorisme, l'exonération de droits de mutation à titre gratuit s'applique, dans les mêmes conditions, aux dons en numéraire reçus par son conjoint, son partenaire lié par un pacte civil de solidarité, son concubin notoire, ses descendants, ses ascendants et les personnes considérées comme à sa charge, au sens des articles 196 et 196 A bis du code général des impôts.

Le premier alinéa de l'article 1691 ter du code général des impôts accorde le dégrèvement de la taxe d'habitation et de la contribution à l'audiovisuel public établies au nom du défunt pour sa résidence principale l'année de son décès. Le deuxième alinéa de l'article 1691 ter de ce même code, prévoit enfin une décharge de paiement de l'impôt sur le revenu et des prélèvements sociaux restant dus ou à devoir, à la date du décès, sur les revenus perçus ou réalisés par les personnes décédées depuis le 1<sup>er</sup> janvier 2015 d'un acte de terrorisme, l'année du décès et l'année précédente. Les sommes versées avant le décès, au titre des revenus du défunt, ne sont pas restituées. Les ayants droits sont dispensés de déclarer les revenus du défunt.

En troisième lieu, s'agissant du bénéfice de l'aide juridictionnelle, la condition de ressource n'est pas exigée pour les victimes de crimes d'atteintes volontaires à la vie ou à l'intégrité de la personne dont la liste est détaillée à l'article 9-2 de la loi n° 91-647 du 10 juillet 1991 relative à l'aide juridique et qui sollicitent l'aide juridictionnelle en vue d'exercer l'action civile en réparation des dommages résultant des atteintes à la personne. Il en va de même pour leurs ayants-droit. La notion d'ayants droit inclut toutes les personnes ayant un lien de parenté avec la victime, sa définition n'étant pas limitée par l'article 9-2 précité.



## GERMANY

Emergency medical treatment is within the responsibility of Germany's *Länder* due to the federalist system in Germany. There is no reason to assume that the above-mentioned treatment is not available.



## MONACO

La Principauté de Monaco dispose d'une Cellule d'Urgence Médico-Psychologique (CUMP), qui peut être déclenchée dans le cadre d'un plan de secours (Plans BLANC, ROUGE, ORMOSE...), suite à un attentat terroriste. Cette cellule assure une prise en charge immédiate des victimes, d'un point de vue médical et psychologique.

La Direction de l'Action et de l'Aide Sociales assure l'accueil, l'hébergement ou le logement d'urgence des familles ou de leurs membres et plus généralement de toute personne dont le besoin le nécessite.



## MONTENEGRO

The Law on Compensation of Victims of Violent Crimes stipulates that: "For the purpose of timely elimination of harmful consequences of serious physical and mental state of the victim, the victim is entitled to compensation (hereinafter referred to as "compensation"), including:

- compensation for lost earnings;
- compensation for healthcare costs (costs of treatment and hospitalization);
- compensation for funeral costs. "

"Where the victim has died in the cases referred to in Article 3 of this Law, the person who received support from the victim under the law governing family relations (hereinafter referred to as "the dependent") is entitled to compensation referred to in paragraph 1 of this Article and to compensation for the loss of statutory support."

"The victim and the dependant may claim one or more types of compensation referred to in paragraph 1 of this Article, depending on the circumstances of the case."

Right to compensation from § 1 p. 3 of this Article has the person who paid the funeral costs.



## NETHERLANDS

Yes. In the Netherlands assistance to victims is embedded in the Royal Decree on victims of criminal offences (*Koninklijk Besluit slachtoffers van strafbare feiten*). This Decree establishes inter alia that victims have, according to their needs, free access to organisations for victim's support before and during the criminal procedure as well as during an appropriate term after the criminal procedure.

The Act on Justice Subsidies (*Wet Justitie-subsidies*) describes the elements of victim support such as: the relief/care and support for victims and surviving relatives of (presumptive) criminal offences consisting of: legal assistance, practical assistance, short term emotional assistance and referral to institutions for support that are not especially aimed for victims. The latter institutions include hospitals and specialized organisations for (medical) care and treatment.



## **NORTH MACEDONIA**

The national legislation does not recognize the victims of terrorist acts as a special category and as such they are not entitled to special right to medical, psychological or social assistance in resuming the normal course of their activities and lives which they had enjoyed before the terrorist act



## **NORWAY**

Anyone staying in Norway, including those without permanent residence is entitled to free of charge medical care (physical and mental) in a case of emergency. All municipalities in Norway offer an out-of-hours medical service for immediate medical assistance 24 hours a day. A phone call to the 6-digit-number 116 117 will get you through to the out-of-hours medical service in the municipality you are calling from. If necessary, you are entitled to an interpreter when you contact the medical and care services. A victim of terrorist act is entitled to obtain immediate care at a hospital without any referral by GP (General Practitioner) or an out-of-hours medical centre. Building on the experiences after the terrorist attacks of 2011, the municipal health and care act has been amended to clarify the duty of municipalities to ensure psychosocial preparedness. This ensures that necessary urgent psychosocial assistance is available in all municipalities.



## **POLAND**

First medical aid is provided to victims by the counterterrorist operators from the Police counterterrorist units (Bureau of Antiterrorist Operations of the National Police Headquarters or Antiterrorist Subunit of the Voivodship Police Command) when they are still in the zone 1 (*i.e.* of direct threat). Upon the evacuation from that zone, the victims are taken over by civilian medical services.

The Act of 12 March 2004 on Social Assistance provides for assistance in the form of crisis intervention. Article 47(1) of the Act defines the crisis intervention as a set of interdisciplinary activities undertaken for persons and families in crisis. The purpose of crisis intervention is to restore mental balance and the ability to cope independently, and thus prevent the crisis response to become a state of chronic psychosocial failure. The crisis intervention covers persons and families regardless of their income (Article 47(2)). As part of a crisis intervention, immediate specialist psychological help is provided, and depending on the needs - social or legal counselling, in justified situations - shelter up to 3 months (more details on social, legal and material assistance see below in the replies to questions nos. 3 and 4).

Immediately after a terrorist attack, psychological help may also be provided by psychologists employed in Police and Fire Service units, psychologists providing assistance in foundations, churches, and educational institutions (e.g. by decision of the Commander of the Voivodship Police Headquarters).

Urgent assistance to victims (or other persons in need) in case of medical treatment is free of charge as other medical rescue procedures. Psychological assistance is also offered free of charge by responsible bodies.

The regulations on medical activity impose on health care entities an obligation to provide health care to any person who needs immediate provision of such assistance due to a threat to life or health. Article 19(1) of the Act of 27 August 2004 on healthcare services financed from public funds, states that in emergency situations, healthcare services are provided to the recipient without delay. At the same time, the units of the State Medical Rescue system (emergency medical teams, including air rescue teams and hospital emergency departments) providing healthcare services in the state of a sudden health threat are financed from public funds. In the case of persons who are not entitled to services financed from public funds (including victims of terrorism), the healthcare provider has the right to claim the costs of treatment from the patient or his legal guardian or from a commercial insurer in the case of persons having private medical insurance.

In the case of technical failures<sup>43</sup> (or natural disasters) or where the voivodship emergency medical coordinator considers that the effects of an event may cause a state of sudden health risk to a significant number of people, the coordinator informs the voivode immediately about the need to bring to a state of enhanced preparedness of all or some of the entities performing medical activities operating in the area of a given voivodship. In such cases, the voivode may impose, by way of an administrative decision, on the aforementioned entities performing medical activities the obligation to remain in a state of enhanced preparedness to receive persons in a state of sudden health risk. If the above healthcare services provided by entities performing medical activities under the obligation fulfilment are not financed by the National Health Fund under a contract for the provision of healthcare services, the provisions of Article 19(2)-(6) of the Act of 27 August 2004 on Healthcare services Financed from Public Funds apply.



## PORTUGAL

YES. Victims of terrorist crimes are particularly vulnerable victims and as such can be assisted by the health services integrated in the National Health Service located in the area of the host structure where they are inserted, as an alternative to the health services of their residence.

Particularly vulnerable victims are exempt from the payment of the fee rates under the National Health Service.

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<sup>43</sup> The term a “technical failure” is defined by Article 3(1)(3) of the Act of 18 April 2002 on the State of Natural Disaster as a sudden, unforeseen damage or destruction of a building, a technical device or a system of technical devices causing an interruption in their use or loss of their properties.



Yes. According to Title Two. Immediate Measures to Protect Victims after a Terrorist Attack of Act 29/2011 of 22 September:

**Article 9.** Immediate psychological and psychiatric assistance

1. Those persons affected by a terrorist attack shall benefit from immediate and free psychological and psychiatric assistance for as long as necessary, according to medical criteria, in order to ensure their prompt and satisfactory recovery.
2. To this end, the General State Administration may sign agreements with other Public Administrations or private entities, in order to establish a prompt, coordinated and well-organised system aimed at minimising the personal impact of a terrorist attack.

**Article 10.** Emergency health care

1. The bodies and entities of the National Health System shall ensure emergency health care pursuant to their operating regulations.
2. Health authorities and management staff of health centres shall adopt specific procedures aimed at identifying and informing the family members about the victims' condition. The Ministry of the Interior shall be authorised to obtain from the above-mentioned authorities and health centres all the information needed in order to provide adequate assistance for victims of terrorism and their families.
3. The assistance referred to in this Article shall include – according to whatever system is established by regulations – the necessary psychological and psychiatric support until this entitlement is formally granted pursuant to the Articles below.

**Article 11.** Specific information on subsidies, compensation and other benefits

1. Competent Public Administrations shall establish and coordinate, in their respective domain of competence, information mechanisms regarding procedures on subsidies, compensation and other benefits.
2. This information shall be personalized and adapted to the circumstances and characteristics of the persons affected by terrorist attack and aimed at recognising the system established by this Act, as well as entitlement to National Health System benefits.
3. The necessary means shall be established to ensure that victims of terrorism who, due to their personal and social circumstances, may have greater difficulty in comprehensively accessing the information can effectively exercise this right. To this end, it shall be guaranteed that those persons to whom the present Act is applicable and who are in a situation of disability or do not speak the language may obtain clear information on their rights and the resources available to meet their needs.



**Article 12. Funeral and burial expenses**

The General State Administration, under the terms to be established by law, shall bear the costs of the transportation, funeral, burial and/or cremation of those persons who died as a result of a terrorist attack.

**Article 13. Consular and diplomatic assistance**

The General State Administration abroad shall establish specific instruments for assisting Spanish victims, providing effective consular and diplomatic assistance in situations of terrorist attacks abroad.

Furthermore, the family of the deceased and the persons who as a result of the attacks incur in permanent disability will be entitled to an extraordinary pension for terrorism. The National Institute for Social Security is responsible for awarding these pensions.

**SWEDEN**

The Terrorism Directive (2017/541/EU) contains the requirement that EU Member States ensure that support services addressing the specific needs of victims of terrorism are in place in accordance with the Victims of Crime Directive (2012/29/EU) immediately after a terrorist attack and for as long as necessary. These services must be free of charge and include in particular emotional and psychological support, advice and information on relevant legal, practical or financial issues. Under the Terrorism Directive, Member States must also ensure that adequate medical treatment is available to victims of terrorism immediately after a terrorist attack and for as long as necessary. An Inquiry (Ministry Publication Series 2018:22) has analysed Sweden's implementation of the provisions on victims of crime contained in the Terrorism Directive and made the assessment that Sweden, through existing opportunities for assistance and support from social services, health and medical care services, actors in the judicial system and non-profit organisations, is considered to live up to the requirements of the Terrorism Directive that there must be support services addressing the specific needs of victims of terrorism in place in accordance with the Victims of Crime Directive, and that they are available for victims immediately after a terrorist attack and for as long as necessary. However, the Inquiry proposes removing the 'basic deduction' when determining criminal injuries compensation under the Criminal Injuries Compensation Act (2014:322) so that victims of terrorism are entitled to psychological support immediately after a terrorist attack and as long as necessary in a way that is completely free of charge. The Inquiry is currently being processed at the Government Offices.

**SWITZERLAND**

Oui. La LAVI prévoit que la victime et ses proches ont droit à une aide pour répondre aux besoins les plus urgents découlant de l'infraction (aide immédiate). Cette aide consiste notamment en l'assistance médicale, psychologique, sociale et matérielle dont ils ont besoin à la suite de l'infraction. Si nécessaire, un

hébergement d'urgence peut aussi leur être procuré (art. 13 al. 1 et 14 al. 1 LAVI). A noter que si l'acte terroriste a eu lieu à l'étranger, les prestations prévues par la LAVI sont restreintes (art. 3 et 17 LAVI).

### 3. Have victims of terrorist acts access to a specific information point concerning their rights?

#### AUSTRIA

According to § 70 para. 1 CCP the criminal investigation authority or the prosecution authority has to inform the victims about their rights under the CCP (§§ 66 to 67 CCP) as soon as investigation proceedings are conducted against a particular accused, in a language that the victim understands and in a comprehensible manner, taking into account any special personal needs of the victim.

The information may only be omitted as long as this would jeopardize the purpose of the investigations. Not later than the beginning of their first interview victims within the meaning of § 65 subpara. 1 lit. a) or b) are to be informed about the legal requirements for legal support during the proceedings and victims with special protection needs about their rights under § 66a.

In addition, victims within the meaning of § 65 subpara. 1 are to be informed not later than their questioning within the meaning of §§ 172 para. 4, 177 para. 5 and 181a about their right to be notified, upon request, about the escape and re-arrest of the escapee (§ 106 para. 4 of the **Corrections Act** (Strafvollzugsgesetz – StVG) and about the unsupervised exit of the facility or the imminent or recent discharge of the prisoner (§ 149 para. 5 of the Corrections Act).

#### BELGIUM

La création d'un guichet central où les victimes de terrorisme (et de certaines catastrophes majeures) peuvent se diriger est en voie de création. Ce guichet central sera créé au sein de parquet fédéral, compétent pour gérer les enquêtes pénales sur les actes terroristes en élargissant des pratiques existantes de gestion de victimes et de proches dans les dossiers judiciaires, quel que soit leur statut de partie lésée ou partie civile. Cette création d'un point d'information spécifique en Belgique doit tenir compte de la structure fédérale du pays, dans lequel les compétences relatives à l'accueil des victimes et à l'aide aux victimes relèvent de la compétence des Communautés. Un protocole de collaboration entre tous les niveaux de pouvoirs concernés est en cours de rédaction. Ce guichet central assistera les victimes à la suite d'un attentat terroriste ou d'une catastrophe majeure quant à leurs demandes d'aide psychologique, d'aide financière, d'indemnisation des assureurs, etc., le cas échéant en les renvoyant vers le service compétent. Au niveau des entités fédérées, des engagements sont prises à mettre en place des 'coordinateurs psychosocial' pour la phase

post-aigue qui fera le lien de rapidement diriger la victime vers les services compétents des Communautés sur le terrain.

Dans ce cadre il convient également de renvoyer aux journées de rencontre, huit au total, que les autorités fédérales ont organisé entre les mois de mai et de septembre 2018, lors desquelles les victimes ont pu rencontrer individuellement tous les services et administrations concernés – en fonction de leurs questions. 185 victimes ont répondu présent. Tant la Commission pour l'aide aux victimes que l'Office médico-légal, la cellule des Victimes civiles de guerre et de terrorisme (SFP) et le secteur des assurances ont envoyé des représentants. Les services d'accueil des victimes et d'aide aux victimes des Communautés étaient également présents. Au préalable, les experts ont préparé chaque rendez-vous de manière approfondie, afin de parvenir à répondre à un maximum de questions. Les entretiens ont pour la plupart duré une heure et demie par personne. Il est ressorti de ces entretiens que la majorité des personnes présentes a particulièrement apprécié de pouvoir rencontrer des experts.

Enfin, les victimes de terrorisme peuvent s'adresser aux services d'assistance policière aux victimes (SAPV) de la police locale et police fédérale, aux services d'accueil des victimes et aux services d'aide aux victimes pour des informations sur leurs droits et peuvent bénéficier d'un accompagnement du service d'accueil des victimes tout au long de la procédure judiciaire. Des informations générales sur ces sujets peuvent en outre être consultées sur les sites web des Communautés ([www.slachtofferzorg.be](http://www.slachtofferzorg.be) et [www.victimes.be](http://www.victimes.be) et <http://www.ostbelgienlive.be/desktopdefault.aspx/tabid-3918/linkid-647/catid-110> ).



## CROATIA

Since Croatia has thus far been mostly spared from terrorist attacks, there wasn't need for establishing a specific information point concerning rights for victims of terrorist acts.



## CYPRUS

According to article 11 of the above law, the Social Welfare Services ensure that the victims receive:

- Information, advice and support relevant to their rights of victims, including access to national compensation schemes for criminal injuries and on their role in criminal proceedings including preparation for attending the trial.
- Information about or direct referral to any relevant specialist support services in place.
- Emotional and psychological support.
- Advice relating to financial and practical issues arising from the crime.
- Advice relating to the risk and prevention of secondary and/or repeat victimization of intimidation and of retaliation.



## DENMARK

Please, see the answer to question 1a. Additionally, specific information regarding victims' rights is available on the website of the Danish Prosecution Service.



## ESTONIA

Yes. § 8 7) of the Code of Criminal Procedure obliges the investigative bodies, Prosecutors' Office and courts to explain to a victim who is a natural person his or her right to contact a victim support official and, if necessary, receive victim support services and the state compensation prescribed for victims of crimes of violence and explain which opportunities arising from the Code of Criminal Procedure can be used to ensure the safety of victims.



## FINLAND

No. So far, Finland has no separate contingency plan to establish an information or contact point for victims of terrorism. Different authorities have the responsibility of informing victims about the rights mentioned in footnote. Improving the access to information of victims of terrorism and their families is a current objective of the Ministry of Justice and other authorities and stakeholders.



## FRANCE

Comme évoqué précédemment, les victimes et leurs proches sont informés de leurs droits notamment par la plateforme téléphonique de la Cellule interministérielle d'aide aux victimes (CIAV) lorsqu'elle est activée et au sein du centre d'accueil des familles.

Des fiches d'information sur les droits (pour les familles endeuillées, pour les victimes blessées et pour les victimes choquées) sont ainsi mises à disposition des victimes et de leurs proches. Elles sont envoyées par email aux victimes par la CIAV ou bien distribuées directement au sein du centre d'accueil des familles.

Lorsque la CIAV n'est pas activée, l'information sur les droits des victimes se fait notamment par l'intermédiaire des associations d'aide aux victimes subventionnées par le ministère de la Justice, qui agissent sur réquisition du procureur de la République de Paris. Les associations d'aide aux victimes sont mobilisées pour intégrer le Centre d'accueil des familles et leur proposent des entretiens d'information sur leurs droits et démarches, en étroite collaboration avec les personnels des cellules urgences médico-psychologiques.

Depuis 2016, le Gouvernement a également mis en place sur son site Internet un guichet unique d'information et de déclaration pour les victimes d'actes terroristes<sup>44</sup>.



## GERMANY

The Federal Government Commissioner for the Victims and Bereaved of Terrorist Offences committed on National Territory is available as a contact person for persons affected by terrorist offences. The victims' commissioner functions as a "navigator" among the various providers of victim services. The office of the Commissioner has been created on a permanent basis in 2018; it is located in the Federal Ministry of Justice and for consumer protection.

Gone beyond this, Germany's *Länder* have their own central structures for victim protection, which are designed to enable quick and non-bureaucratic assistance, especially in the case of terrorist attacks.

In order to provide victims of terrorist attacks with an overview of the most important information, the Federal Ministry of Justice and Consumer Protection makes available a brochure in various languages with information for those affected by terrorist crimes. The brochure for victims of terrorism is available in seven languages at [BMJV.de/opferbeauftragter](https://www.bmJV.de/opferbeauftragter). Furthermore, the general leaflet for victims of criminal offences is currently available in 29 languages at:

[https://www.bmJV.de/DE/Themen/OpferschutzUndGewaltpraevention/Opferhilfe\\_undOpferschutz/Opferhilfe\\_node.html](https://www.bmJV.de/DE/Themen/OpferschutzUndGewaltpraevention/Opferhilfe_undOpferschutz/Opferhilfe_node.html).



## MONACO

Il n'existe pas de point d'information spécifique en matière de terrorisme, toutefois, les victimes d'actes terroristes peuvent s'adresser à l'Association d'Aide aux Victimes d'Infractions Pénales (A.V.I.P.). L'A.V.I.P. a été créée en juillet 2014 dans le cadre de la loi n° 1.382 du 20 juillet 2011 relative à la prévention et à la répression des violences particulières. C'est une association conventionnée, agréée par arrêté ministériel n° 2014-660 du 20 novembre 2014. Depuis le 1<sup>er</sup> mai 2018, un fonctionnaire a été mis à disposition de cette association.

Cette association a pour objet d'accueillir les victimes d'infractions pénales, telles que les victimes d'actes terroristes. Elle les écoute, les informe sur les démarches à effectuer pour faire valoir leurs droits et les accompagne tout au long de la procédure. Cette aide est accordée à titre confidentiel et gratuit. Les brochures de l'A.V.I.P. sont diffusées au sein de l'Administration, au Palais de Justice et à la Direction de la Sûreté Publique (cf. site internet : <http://www.avip-monaco.org>).

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<sup>44</sup> Accessible à l'adresse suivante : <https://www.gouvernement.fr/guide-victimes>.



## MONTENEGRO

It's important to emphasize that the Law on Compensation of Victims of Violent Crimes stipulates the obligation to inform victims on the right to compensation and on the authority they may address for the purpose of realising such right. The police, the State Prosecution Service, the courts and the Ministry of Justice are under a duty to inform victims and to cooperate.



## NETHERLANDS

In the Netherlands, a national manual has been developed concerning the support of victims after a terrorist attack (*Proces slachtofferzorg na een terroristische aanslag*), under the auspices of the National Coordinator for Security and Counterterrorism (*Nationaal Coördinator Terrorismebestrijding en Veiligheid*). This manual includes information on Victim Support Netherlands (*Slachtofferhulp Nederland*) that serves as an information point for victims in the event of a terrorist act. The coordinating role of the municipality where the attack takes place ensures the governmental unity of action among individuals and brings harmony in carrying out the different activities and tasks so as to achieve the organizational goals efficiently. In this context the Municipality will ask Victim Support Netherlands as an operational party to play a central role as an information point for all victims.

All crime victims have a right to be supported by Victim Support Netherlands.

The police, prosecutor or other investigating officer is obliged to inform the victims of their rights immediately after their first contact with these authorities, in order to enable them to have access to their rights (article 51ab, Code of Criminal Procedure). Access to information on the case throughout the proceedings is also guaranteed pursuant to Articles 51ab, 51ac, 51b of the Dutch Code of Criminal Procedure.



## NORTH MACEDONIA

Article 53 of the Law on Criminal Procedure regulates the rights of the victim (in general). According to the said article, the victim of a crime has the following rights:

- 1) to participate in the criminal procedure as an injured party by joining the criminal prosecution or for the purpose of a legal-property claim for damages;
- 2) to get special care and attention by the bodies and entities that participate in the criminal procedure; and
- 3) to get an effective psychological and other professional assistance and support by bodies, institutions and organizations that provide help to victims of crime.

The police, the public prosecutor and the court shall act with special care towards the victims of criminal offenses, advising them of their rights as referred to in

paragraph 1 of this Article and Articles 54 and 55 of the Law and they shall take care of their interests when making decisions for criminal prosecution of the accused, i.e. when undertaking actions during the criminal procedure when the victim has to be present in person, when they have to draft an official note or a record.

In accordance with the special regulations, any victim of crime, which entails a prison sentence of at least four years, shall have the right to:

- 1) get a counselor paid by the state budget before giving a statement, i.e. declaration or filing the legal-property claim, if the victim has serious psycho-physical impairment or if there are serious consequences as a result of the crime; and
- 2) be compensated for material and non-material damages from a state fund, under conditions and in a manner as prescribed in a separate law, if the damage caused cannot be compensated from the convicted person.

Article 57 of the Law on Criminal Procedure prescribes the rights of the injured party. Namely, in the criminal procedure, the damaged person has the following rights:

- 1) to be advised of his or her rights;
- 2) to use his or her language and alphabet and the right to be assisted by an interpreter, i.e. a translator if he or she does not understand the language used during the procedure;
- 3) to put forward a proposal for a legal or property claim;
- 4) to have a legal representative;
- 5) to indicate facts and propose evidence;
- 6) to be present at the evidentiary hearing;
- 7) to be present at the main hearing and to participate in the evidentiary procedure, as well as to comment on the legal or property claim and the legal and criminal event;
- 8) after the investigation has been completed, to review the files and items that are going to be used as exhibits and evidence;
- 9) to file an appeal under the conditions prescribed in this Law;
- 10) to file a proposal for prosecution and personal lawsuit, in accordance with the provisions of the Criminal Code;
- 11) to be informed about any lack of action or waiver of criminal prosecution by the public prosecutor;
- 12) to appeal to the higher Public Prosecutor against the decision of the Public Prosecutor to waive his or her prosecution procedure, under the conditions prescribed in this Law;
- 13) to ask for the return of the previous state of affairs;
- 14) to ask for an observance of his or her right to privacy;
- 15) to participate in the mediation process, in a manner and under conditions as prescribed in this Law.



## NORWAY

Helsenorge.no has published easily accessible health information in English, including for those exposed to traumatising events.

The Criminal Procedure Act section 107 a provides that a victim of crime is entitled to the assistance of a state financed counsel where there is reason to believe that he or she, as a result of the criminal act, will incur considerable harm to body or health. Parents of a deceased victim under the age of 18 years also qualify for a state financed counsel. Furthermore, the court may appoint counsel in other cases if it is required by special circumstances.

The counsel shall protect the victims' interests in connection with the investigation and the main hearing of the case. The counsel shall also provide such additional assistance and support as is natural and reasonable in connection with the case.

The police shall appoint a contact person for a victim who qualify for state financed counsel and the surviving family members. The contact person shall be responsible for ensuring that the victim and the surviving family members receive the information they are entitled to, such as information on the progress of the case and the investigation.



## POLAND

As a general rule, victims of aggravated crimes in Poland are informed of their rights and existing forms of help or assistance.

Pursuant to the Act of 5 August 2015 on Free Legal Aid and Legal Education, 1,500 units of free legal aid have been set up. Such legal assistance is granted to natural persons who are unable to pay its cost. After obtaining the status of a party in the proceedings, access to free legal aid is regulated by the Code of Criminal Procedure.

In criminal proceedings, before the first hearing, victims of terrorist acts are instructed on their status as a party in the pre-trial proceedings and on the rights resulting from this status, in particular, the rights:

- to submit requests for performing acts of investigation or inquiry, and conditions of their participation in such activities,
- to legal assistance, including a right to apply for appointing an *ex officio* lawyer.

The instruction also includes information about:

- possibilities of seeking compensation for damage from the accused or obtaining the State compensation,
- access to legal aid,
- available means of protection and assistance, referred to in the Act of 28 November 2014 on Protection and Assistance for the Victim and Witness,



- the possibility of receiving medical, psychological, rehabilitation, legal and material assistance financed by the Assistance Fund for Victims and Post-penitentiary Assistance,
- the possibility of issuing the European Protection Order,
- victim support organisations,
- the right to obtain information about the date and place of a public hearing, charges of accusation and their legal qualification, and
- the possibility of reimbursement of costs incurred in connection with participation in the proceedings.

The instruction is delivered to the aggrieved party in writing.

The project for establishing a nationwide telephone helpline "Aid to the Victims" is currently being implemented. It will enable the victims to anonymously receive information about the possibility of assistance and to make an appointment at any help point throughout Poland. The line will also give an opportunity to get quick psychological and legal advice. A special e-mail address will also be used for contact. This would be of a great convenience for those seeking help as it will replace the various types of telephone helplines currently in place.



## PORTUGAL

The victim shall be ensured, from his/her first contact with the competent authorities and officials, including prior to the submission of the complaint, and without undue delay, access to the following information: (a) the services or organizations to which he/she may address for support; b) the support they can receive; c) where and how file a complaint; (d) what procedures follow the complaint and what their role in the proceedings; e) how and under what terms they can receive protection; (f) to what extent and under what conditions they have access to legal advice, legal aid or other forms of advice; g) what are the requirements governing their right to compensation; (h) under which conditions they are entitled to interpretation and translation; (i) the procedures for lodging a complaint if their rights are not respected by the competent authorities operating in the context of criminal proceedings; j) what special mechanisms they can use in Portugal to defend their interests, being resident in another State; (k) how and under what conditions the costs incurred by him/her as a result of his participation in criminal proceedings may be reimbursed; (l) under which conditions he/she has the right to notification of decisions given in criminal proceedings.

It should be noted that the extent and detail of the above information may vary according to the specific needs and personal circumstances of the victim, as well as the nature of the crime.



## SPAIN

Yes. As established in Act 29/2011 of 22 September, the Direction General to Support Victims of Terrorism, in the Ministry of Home Affairs, is the one-stop shop Office for all issues related to victims of terrorism in Spain and activates a helpline (“hotline”) in case of terrorist attacks crisis that is attended by the officers of the Citizen Attention Unit or social workers.

For more information, please visit the website:  
<http://www.interior.gob.es/web/servicios-al-ciudadano/ayudas-y-subsvenciones/a-victimas-de-actos-terroristas>



## SWEDEN

The Ordinance concerning the duties of the Swedish Crime Victim Compensation and Support Authority (2007:1171) gives this Authority the responsibility to promote the rights of victims of crime, highlight their needs and interests, and act as an information and knowledge centre for issues related to victims of crime. This role also includes initiating collaboration on and dissemination of information about issues related to the victims of crime. Within this overall assignment, the Authority has produced a lot of information material for victims of crime, including the information brochure ‘Information to crime victims’. The Authority has also produced certain information specifically designed for victims of terrorism. On the Swedish Crime Victim Compensation and Support Authority website ([www.brottsoffermyndigheten.se](http://www.brottsoffermyndigheten.se)) there is general information about this under the heading (in Swedish) ‘If you have been affected by a terrorist attack in Sweden or abroad’, and more specifically under the heading (in Swedish) ‘Advice about compensation following the attack on Drottninggatan in Stockholm’. The abovementioned Inquiry (see answer to question 2) has proposed that the Swedish Crime Victim Compensation and Support Authority review and further develop its existing information targeting victims of terrorism. The proposal involves making it possible to adapt the information produced to a particular event. However, the proposal does not mean that the Swedish Crime Victim Compensation and Support Authority would take over other agencies’ or actors’ responsibility to provide information or exercise their current responsibilities, or that it would be appointed a central information point or similar. The Inquiry is currently being processed at the Government Offices.



## SWITZERLAND

Comme relevé, puisque le droit suisse ne connaît pas de catégorie de victimes, il n'existe pas en l'état de point d'information spécifique pour les victimes d'actes terroristes. Néanmoins, chaque canton dispose de centres de consultation, lesquels doivent tenir compte des besoins particuliers des victimes d'infractions comme par exemple en cas d'actes terroristes (art. 9 al. 1 LAVI). Les victimes et

leurs proches peuvent s'adresser au centre de consultation de leur choix (art. 15 al. 3 LAVI). En outre, les autorités de poursuite pénale communiquent l'identité des victimes et de leurs proches à un centre de consultation pour autant que celles-ci y consentent (art. 305 al. 3 du code de procédure pénale suisse; CPP, RS 312.0).

**4. Have victims of terrorist acts a right in medium and long-term to medical, psychological, social and material assistance which leads them, as far as it is practicable, to resume the normal course of their activities and lives which they enjoyed before the terrorist act?**



**AUSTRIA**

Yes: Financial assistance in accordance with the Victims of Crime Act is offered as long as it is necessary for the victim (e.g. for medical assistance, psychotherapeutic treatment, rehabilitation, loss of earnings, long-term-care allowance).



**BELGIUM**

Oui, via le statut de solidarité nationale. Le statut de solidarité nationale, la carte de solidarité nationale, la pension de dédommagement et le remboursement des soins et des frais réels ont été réglés par la loi du 18 juillet 2017 relative à la création du statut de solidarité nationale, à l'octroi d'une pension de dédommagement et au remboursement des soins médicaux à la suite d'actes de terrorisme et par divers arrêtés royaux d'exécution. Ces droits sont expliqués sur le site Internet de la Cellule des victimes civiles de guerre et de victimes d'actes de terrorisme (SFP). Chaque entité prévoit des avantages différents (notamment fiscaux).

Les victimes directes ont droit à une pension de dédommagement si leur taux d'invalidité reconnu est supérieur à 10%, au remboursement de tous les soins médicaux liés à l'attentat et à certains autres avantages comme la gratuité sur les transports publics ou l'exonération fiscale de la pension de dédommagement.

Les victimes indirectes ont droit au remboursement de tous les soins psychologiques liés à l'attentat.

En outre, à la demande de la Ministre des affaires sociales et de la Santé publique, le conseil supérieur de la santé a remis des avis :

- Un avis sur la prise en charge et le soutien psychologique après des incidents terroristes ou des catastrophes apparentées (Mai 2017- n° 9425) ;
- Des recommandations en matière de prévention et de gestion des séquelles psycho-sociales dans le cadre de situations d'urgences individuelles ou collectives (Octobre 2017 – n°9403).

Les victimes d'attentats terroristes peuvent bénéficier, à moyen et à long terme, du soutien gratuit des services d'accueil des victimes (des maisons de justice) et des services d'aide aux victimes.

L'assistant de justice du service d'accueil des victimes donne des informations générales sur la procédure judiciaire et sur les droits des victimes ainsi que des informations spécifiques sur le dossier judiciaire et sur la procédure en cours (par exemple sur le déroulement de la procédure, les décisions du juge, les droits des victimes...). Il soutient et accompagne les victimes durant la procédure judiciaire (par exemple lors de la consultation du dossier, lors de l'audience du tribunal, lors de la restitution des effets personnels.) et, si nécessaire, oriente les victimes vers des services compétents en fonction de leurs besoins et des difficultés rencontrées (par exemple pour une aide sociale ou psychologique ou un conseil juridique).

L'intervenant du service d'aide aux victimes apporte une aide sociale (par exemple, il participe à la reconnaissance du statut de victime, il les informe sur leurs droits, il les soutient et les oriente dans leurs relations avec la police, les instances judiciaires et les organisations spécialisés, il les accompagne et les soutient dans leurs démarches d'ordre administratives, sociales et juridiques, dans le cadre d'une demande d'aide financière aux victimes d'actes intentionnels de violence ou en cas d'audition par le Tribunal d'application des peines, auprès notamment des assureurs, mutuelles, etc.) et il apporte une aide psychologique (par exemple, par un soutien thérapeutique spécialisé et personnalisé pour faire face aux conséquences directes et indirectes de l'infraction pénale et des problèmes particuliers liés à sa situation spécifique, offrir un espace d'écoute et de soutien permettant d'accueillir et de permettre l'expression de ce qu'elle vit et l'assimilation du choc). Le suivi psychologique s'élabore principalement par un suivi en individuel mais peut aussi se faire au sein d'activités collectives et de débriefings.



## CYPRUS

Victims have the right to access to support services before and after (for a reasonable period of time) the criminal proceedings in order to assist them in resuming their normal course of activities and lives, which they had enjoyed prior the terrorist act.



## DENMARK

In general, the Danish public health and welfare system will ensure that victims of crimes has access to relevant medical, psychological etc. assistance, and will continue to help until the victim is able to resume to a normal course of activities.



## ESTONIA

For emergency and psychological care see answer 2. Counselling and assistance in communicating with state and local government authorities and legal persons (as mentioned in answer 2) is also available as long as necessary.

Victims of crimes of violence are also entitled to compensation for the following:

- 1) damage arising from incapacity for work or work decrement;
- 2) expenses incurred due to damage caused to victim's 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.

Victims of crimes of violence are victims of an act committed against the life or health of a person which is punishable pursuant to criminal procedure and as a result of which the injured person:

- 1) dies;
- 2) sustains serious damage to his or her health;
- 3) sustains a health disorder lasting for at least four months.



## FINLAND

Victims of terrorism and others who have faced a sudden, shocking event must be provided with the necessary healthcare and social welfare services. Long-term support and monitoring are important. Municipalities are also obliged to ensure psychosocial support, to back up the ability of the recipient to return to his or her normal life.

There is no separate support scheme for victims of terrorism to cater for their above-mentioned needs. These victims receive the same medium term or long-term services as other victims of crime, and the compensation for crime damage is determined in the same way as for other crime.

However, in the context of major crises it is possible to establish a fund for the needs of victims and their families. Such funds were founded, for example, after the explosion in the Lapua Cartridge Factory in 1976 and the explosion in the Myyrmanni shopping centre in 2002.

Les victimes de terrorisme bénéficient d'un accompagnement spécifique et pluridisciplinaire dans la durée. Le ministère de la Justice, chargé de l'aide aux victimes, veille à la continuité de l'aide apportée dans le prolongement du traitement d'urgence<sup>45</sup>. Il s'appuie sur plusieurs dispositifs en vue d'apporter un soutien, de l'information et accompagner les victimes dans la durée.

Conformément à l'instruction interministérielle relative à la prise en charge des victimes d'actes de terrorisme, à l'issue de la période de crise, le ministre de la Justice peut décider de réunir un comité interministériel de suivi des victimes (CISV) qui définit et pilote le dispositif d'accompagnement post-crise des victimes.

Dirigé par la/le ministre de la Justice ou par la/le délégué(e) interministériel à l'aide aux victimes sur délégation, il est composé du chef du service de l'aide aux victimes du ministère de la Justice (SADJAV), de représentants des ministères concernés (Armées, Europe et Affaires étrangères, Finances, Santé), du parquet de Paris, du psychiatre référent national des cellules d'urgence médico-psychologiques, d'un représentant de l'Office national des anciens combattants et victimes de guerre, du FGTI, de la caisse nationale de l'assurance maladie des travailleurs salariés, de la caisse nationale militaire de sécurité sociale, ainsi que de représentants des associations de victimes et de toute personne utile.

Par ailleurs, un numéro d'appel national d'information des victimes est mis en place, géré par la plateforme téléphonique 116 006, marché public attribué à France victimes (**fédération française regroupant 130 associations professionnelles, spécialisées dans l'aide aux victimes**). Ainsi lorsque la plateforme téléphonique de la CIAV est désactivée à l'issue de la période de crise (période d'urgence), les appels sont basculés vers le numéro du 116 006 où « *des écoutants professionnels, formés au suivi des victimes, offrent une écoute privilégiée, une identification des besoins, des premiers conseils ainsi qu'une mise en relation des victimes avec une association d'aide aux victimes et/ou tout service partenaire susceptible de répondre aux demandes qu'elles formulent* ». Il en est de même quand la Cellule interministérielle d'aide aux victimes (CIAV) n'a pas été activée et que seul un numéro de téléphone d'information du public, ouvert par la préfecture locale concernée, cesse son activité. La plateforme communique au comité interministériel de suivi des victimes un compte-rendu de ces appels.

Les associations d'aide aux victimes, conventionnées par le ministère de la Justice, sont chargées d'accueillir, d'informer et d'accompagner gratuitement toute personne exprimant un besoin en lien avec un acte de terrorisme.

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<sup>45</sup> Décret n° 2017-1072 du 24 mai 2017 relatif aux attributions du ministre d'Etat, garde des Sceaux, ministre de la Justice.

Par ailleurs, le décret n° 2016-1056 du 3 août 2016, révisé en 2018<sup>46</sup>, a institué dans chaque département un comité local d'aide aux victimes. Cette instance de coordination entre acteurs locaux publics et privés<sup>47</sup> est chargée de garantir l'efficacité et la cohérence des dispositifs d'accompagnement des victimes sur l'ensemble du département. Co-présidés depuis 2018 par le préfet du département concerné et le procureur de la République territorialement compétent, ces comités sont appelés à se réunir régulièrement pour assurer un suivi individuel des victimes de terrorisme.

Dans ce cadre, le procureur de la République et le préfet peuvent décider, en lien avec le Comité interministériel de suivi des victimes, d'ouvrir un espace d'information et d'accompagnement des victimes<sup>48</sup> dans une ou plusieurs villes, selon les besoins. Cet espace est un dispositif adaptable aux besoins des victimes, qui prend en charge de façon pluridisciplinaire et gratuite les victimes et leurs proches. Il facilite leurs démarches et leur accompagnement notamment psychologique, juridique, social et administratif, dans un lieu unique et dans la durée. Il a vocation à accueillir et informer toute personne se présentant comme victime d'un acte de terrorisme, exprimant un besoin en rapport avec l'attentat, que celle-ci soit ou non inscrite sur la liste des victimes identifiées dans le cadre de l'enquête judiciaire ou ayant bénéficié d'une indemnisation par le Fonds de garantie des victimes de terrorisme et autres infractions (FGTI). L'espace d'information et d'accompagnement des victimes accueille des permanences des administrations et organismes concernés par l'aide aux victimes de

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**46 Décret n° 2016-1056 du 3 août 2016 portant création des comités locaux de suivi des victimes d'actes de terrorisme et des espaces d'information et d'accompagnement des victimes d'actes de terrorisme.** Révisé notamment par décret du 3 mai 2018 et sa [Circulaire d'application du 22 mai 2018 relative à l'application du décret n°2016-1056 du 3 août 2016 modifié portant création des comités locaux d'aide aux victimes et des espaces d'information et d'accompagnement des victimes d'actes de terrorisme.](#)

<sup>47</sup> Article 1<sup>er</sup> du décret n° 2016-1056 du 3 août 2016 : un ou plusieurs représentants des services déconcentrés de l'Etat, notamment de la direction départementale de la cohésion sociale et de la direction départementale de la sécurité publique, et du groupement de gendarmerie départementale ou du commandement de la gendarmerie outre-mer territorialement compétent ; un ou plusieurs représentants des collectivités territoriales ; le président du conseil départemental de l'accès au droit ou son représentant ; le magistrat de la cour d'appel dont relève le tribunal de grande instance ou de première instance, délégué à la politique associative et à l'accès au droit ; un ou plusieurs représentants de l'agence régionale de santé ou, en outre-mer, de l'établissement accomplissant les mêmes missions ; un ou plusieurs représentants de Pôle emploi ou, en outre-mer, de l'établissement accomplissant les mêmes missions ; un ou plusieurs représentants des organismes locaux d'assurance maladie et des organismes locaux débiteurs des prestations familiales ou, en outre-mer, de l'établissement accomplissant les mêmes missions ; le ou les autres procureurs de la République des ressorts compris dans le département ; un ou plusieurs représentants d'associations d'aide aux victimes locales conventionnées ; un ou plusieurs représentants des barreaux du département ; tout établissement public concerné ou toute personnalité qualifiée dans le domaine de l'aide aux victimes.

<sup>48</sup> Article 4 du décret n° 2016-1056 du 3 août 2016 cité à la note de bas de page n° 5.

terrorisme et par les droits exceptionnels accordés à ces victimes depuis les années 1980 : indemnisation intégrale de leur préjudice, reconnaissance comme victimes civiles de guerre, adoption des enfants victimes et orphelins par la Nation, gratuité totale des soins physiques, psychiatriques et psychologiques, exemptions fiscales... Certains organismes ou services destinataires de la liste des victimes envoient un courrier aux victimes afin de les informer sur leurs droits. C'est le cas notamment de l'office national des anciens combattants et victimes de guerre et la sous-direction des pensions du ministère des Armées.

L'animation de cet espace est confiée à une association d'aide aux victimes locale, membre du réseau national France victimes en priorité, conventionnée par la cour d'appel territorialement compétente. France victime a été désignée comme interlocuteur institutionnel formé à la spécificité du suivi des victimes d'actes de terrorisme pour chaque département. Des associations de victimes, telles que l'Association française des victimes du terrorisme (AfVT) et la Fédération nationale des victimes d'attentats et d'accidents collectifs (FENVAC) par exemples, peuvent intégrer ce dispositif et se mettre à la disposition des victimes qui le souhaitent. Cet espace est en grande partie financé par le ministère de la Justice.

Par ailleurs, afin d'assurer une prise en charge adaptée du stress post-traumatique sur le long terme, un Centre national de ressources et de résilience (CNRR) a été créé sous le pilotage de la Délégation interministérielle à l'aide aux victimes (DIAV) pour favoriser la recherche en la matière, et dix unités de consultations spécialisées dans le traitement du stress post-traumatique ont été mises en place sur l'ensemble du territoire national.

La mise en œuvre de la convention signée le 1<sup>er</sup> décembre 2017 entre la DIAV et l'établissement public en charge de l'emploi en France (Pôle emploi) permet aussi d'offrir un accompagnement particulier aux victimes de terrorisme en recherche d'emploi ou en reconversion professionnelle. En application de cette convention, Pôle emploi a désigné un référent territorial sur chaque département. Il participe au comité local d'aide aux victimes susmentionné.

Enfin, l'instruction interministérielle du 11 mars 2019 prévoit que « l'ensemble des informations sont également disponibles sur un site internet dédié. Une rubrique particulière, consacrée aux victimes du terrorisme, regroupera l'ensemble des informations, documents et formulaires utiles pour l'accomplissement par les victimes des démarches auprès des administrations et autres organismes prestataires ». Le site Internet « GUIDE – Guichet unique d'information et de déclaration pour les victimes » évoqué au point 20 de la présente contribution a été mis en ligne en 2016.





## GERMANY

Victims and bereaved persons of terrorist attacks have extensive social benefit claims pursuant to the Victims Compensation Act (*Opferentschädigungsgesetz* – OEG). In addition to rapid assistance, for example emergency trauma treatment or payment of funeral costs, monthly basic benefits may be paid especially in cases of permanent damage to health.

The federal budget also provides for funds which can be paid out as hardship payments for victims and bereaved of terrorist violent crime and extremist attacks. Victims and bereaved individuals of terrorist attacks may receive such payments. These hardship payments are made by the Federal Office of Justice on a one-time basis.

Also, claims from the statutory accident insurance fund might be conceivable if the victims are first responders, pupils or students.

If the attack is committed with a vehicle subject to mandatory insurance, claims against the compensation fund for injuries resulting from vehicle accidents might be feasible as well.



## MONACO

Le Centre Hospitalier Princesse Grace est en charge de l'assistance médicale et psychologique des victimes à moyen terme, si nécessaire (prévention et prise en charge d'un état de stress aigu/état de stress post-traumatique...), sous réserve de la couverture sociale, s'agissant de soins hors urgence.

La Direction de l'Action et de l'Aide Sociales assure un hébergement en foyer pour les victimes mineures, dans la limite des places disponibles.



## MONTENEGRO

We don't have special legislation about this issue.



## NETHERLANDS

In the Netherlands, victims of terrorist acts have the same rights as victims of other serious crimes. The available assistance will be tailored according to their specific needs, e.g. trauma therapy.



## NORTH MACEDONIA

The right to healthcare of all citizens is safeguarded by the Constitution and is governed by the Law on Healthcare. There is no emergency assistance free of charge to victims of terrorist acts. The same applies for all citizens, the victims have equal access to healthcare system, (health insurance coverage), but without the exemption of paying health participation



## NORWAY

*Social and material assistance:* Norway has a comprehensive welfare system characterised by universal welfare schemes. As a general rule, all persons who are either resident or working in Norway, are insured under the National Insurance Scheme. Among other things the scheme includes work assessment allowance, sickness benefit, disability benefit and retirement pensions.

Insured persons may be entitled to benefits for improving the ability to work and the ability to function in everyday life if residing in Norway. Benefits for improving the ability to work are granted to insured persons who due to illness, injury or defect have a permanently reduction of their ability to work or if the opportunity to choose occupation or workplace considerably reduced. Benefits are granted in connection with measures that are necessary and appropriate in order to obtain or keep suitable work.

An insured person whose ability to function in everyday life is considerably and permanently reduced due to illness, injury or defect, is granted benefits in connection with measures necessary in order to improve his or her everyday life-function or in order to able to be nursed in his or her own home. The benefit may be given as loan of, grant to or monetary loan for the purchase of technical aids, hearing aid, delineator for tailoring, seeing eye dog, reading and secretarial aid for blind and visually impaired persons, interpreter for hearing impaired persons, interpreter and escort assistance for deaf-blind persons, motor vehicle or other means of transport, orthopaedic aids, breast prosthesis, prosthesis for facial defects, eye prosthesis, wigs etc.

Victims of terrorist acts have the same right to benefits and necessary follow up as other insured members who suffer illness, injury or defect.

For further information on the Norwegian Social Insurance scheme, see the following webpage: <https://www.regjeringen.no/en/dokumenter/the-norwegian-social-insurance-scheme-2018/id2478621/>

*Health care:* The individual's right to health care is regulated by the Patients' Rights Act, which applies to anyone living in the realm. A professional assessment of your needs will determine what you receive. The Norwegian health service does not offer specialised services for victims of terrorist acts, but patients with health issues that require treatment, whether psychological or

somatic, have the right to necessary care. This is also true of victims of terrorist acts. However, it is important to point out that the knowledge garnered from the victims of the terrorist attacks of 2011 show that Norway still has some way to go to ensure that this help is available, sufficiently tailored to individuals' needs and suitably assertive.

## POLAND

The assistance system for victims is regulated by several different legal acts, including:

- Act of 28 November 2014 on Protection and Assistance for the Victim and Witness,
- Code of Execution of Criminal Sentences,
- Act of 12 March 2004 on Social Assistance,
- Act of 5 August 2015 on Free Legal Aid and Legal Education.

Victims, including those injured as a result of terrorist acts, and their next of kin, are entitled to receive medical, psychological, rehabilitation, legal and material support, financed from the Assistance Fund for Victims and Post-penitentiary Assistance (the Justice Fund). Such assistance is provided for by units of the public finance sector, as well as specialised non-profit entities which do not belong to the public finance sector, including associations, foundations, organisations and institutions. The Fund is administrated by the Minister of Justice. The assistance may be granted *inter alia* at the request of a criminal investigation body - e.g. a prosecutor (more information about the Fund is included below in the reply to question no. 9).

Potential victims of crimes, including terrorist acts, also may benefit from social assistance under the Act of 12 March 2004 on Social Assistance if they meet the criteria provided for there. The purpose of social assistance is to "enable persons and families to overcome difficult life situations which they are unable to overcome by using their own rights, resources and opportunities." The decision on granting assistance to a given person and family is made individually, based on information collected during a family interview conducted in the person's and family's environment by a social worker. When determining the right to cash benefits from social assistance, the basic condition is to meet the statutory income criterion. The organisation of the social assistance system, employment standards and basic support instruments are primarily aimed at providing the most basic help at the local level for people at risk of poverty and social exclusion, especially for the poor, sick, persons with disabilities or otherwise in a difficult life situation.

As already mentioned in reply to question no. 2, the Act of 12 March 2004 on Social Assistance provides for the possibility of granting direct support to persons in crisis situations. Such tasks belong to local government units at the municipality and *powiat* (district) level. As part of assistance to victims in crisis situations, the following benefits may be provided under that Act:

- cash benefits – purpose and special-purpose allowances; persons or families who have sustained losses as a result of fortuitous events are entitled to such an allowance; the benefit is of a discretionary character and an administrative decision on awarding this benefit is adopted based on a prior interview with the person/family concerned; such benefits are granted irrespectively of income and such assistance may be non-refundable,
- shelter (temporary place in a night shelter or shelter for homeless people), in a crisis situation occurring on a mass scale, the shelter may also be granted in a different form and regardless of the standards specified in the Act; as well as provision of a meal and necessary clothing. For both benefits - in a crisis situation occurring on a mass scale or due to a fortuitous event the family interview is not carried out and no administrative decision is issued, the expenses incurred for the assistance provided are not refundable,
- in cooperation with other services - immediate specialist psychological assistance provided in the crisis intervention centres, and depending on the needs - also social or legal counselling; such assistance is provided to individuals and families regardless of income, and the granting of the benefit does not require an administrative decision (only the refusal to provide the service takes the form of an administrative decision).

Similarly, Article 10 of Act of 28 November 2014 on protection and assistance for the victim and witness also provides for psychologist assistance in case of threat to the mental health of the victim/witness/their next of kin in connection with pending criminal, fiscal criminal proceedings, operational and reconnaissance activities, verifying proceedings or preparatory proceedings. Assistance is granted from the funds of the Assistance Fund for Victims and Post-penitentiary Assistance by entities that have received subsidies from the fund or other entities providing psychological assistance.

The applicable laws on the protection of the mental health of citizens and guaranteed healthcare services do not specifically refer to "victims of terrorist acts". However, persons who are victims of terrorism, who are in need of help and care in view of the experienced trauma, are covered by legal provisions concerning mental health protection.

In addition, pursuant to Article 10 of the Act of 19 August 1994 on the Protection of Mental Health, no fees are charged for health services in the field of psychiatric healthcare provided to a person with mental disorders by the healthcare provider who concluded a contract for providing healthcare services, referred to in Article 132(1) of the Act of 27 August 2004 on Healthcare Services financed from Public Funds.

Finally, it is also worth mentioning here the support for Police officers and other staff who have suffered from terrorist acts. Such persons are entitled to e.g. immediate psychological support (first psychological aid), crisis intervention and counselling (or therapy) from the Police psychologists.



## PORTUGAL

YES. The State, taking into account health needs, shall ensure appropriate measures to ensure the victim's access to health care of appropriate quality.



## SPAIN

Yes. All the regulation in the Spanish Act 29/2011 of 22 September is intended to repair all damages caused on victims by a terrorist attack in all fields (medical, psychological, social and material assistance).

In addition, the Ministry of Home Affairs has established a National Network of Psychologist specialized on victims of terrorist together with the Spanish Psychologists' National Board.

The team of social workers of the Directorate General of Support for Victims of Terrorism receive victims, family members and friends, provide emotional support, distribute basic necessities, and deliver accurate information to family.

In the long term, this team of social workers maintain personal contact with victims, providing them with assistance, support and counselling with a comprehensive approach, in order for them to achieve better psychological and social well-being, and developing the battery of programmes that the Ministry of Interior has designed in different fields of intervention, aimed at providing personalized assistance to this group. Among these programmes, we can point out the following:

- Family social intervention: providing information on entitlements and resources; carrying out the procedures necessary for specific assistance for which victims might qualify; and referring each case to the appropriate support and services (e.g. legal advice, psychological support, labour integration).
- Accompanying victims throughout the criminal proceedings against the perpetrators of the terrorist attacks they suffered, providing victims with emotional support and addressing specific needs that could arise over the course of the trial.
- Labour integration: this programme facilitates the integration into the workforce of victims of terrorism who are either unemployed or in precarious employment. To this end, the Ministry of Interior has signature Collaboration Agreements with several companies that do business nationwide. Moreover, specific activities and courses are carried out to improve the training and access to employment of victims of terrorism.
- Psychological project: with the aim of standardizing criteria for quality psychological treatment to facilitate victims' recovery and mental normalization, on 18 July 2015 a Collaboration Agreement was signed by the Ministry of Interior and the General Council of Official Psychologists'

Associations. Among the activities being designed to implement the Agreement, highlights include:

- 1) Establishment of a network of professionals throughout the country to treat individuals with psychological disorders resulting from terrorist attacks and who can intervene immediately when an attack occurs.
  - 2) Development of courses and workshops on psychological treatment for victims of terrorism, taught by specialized staff.
  - 3) Drafting of a best practices manual on psychological treatment for victims of terrorism.
- Remembrance and recognition measures: Different actions have been carried out regarding the collective remembrance of victims of terrorism, such as their public recognition through conferring distinctions of the Royal Order of Civil Recognition of Victims of Terrorism, and the support provided to remembrance projects carried out by the association movement (also including financial support, through grants).



## **SWEDEN**

See answer to question 2.



## **SWITZERLAND**

Oui, les prestations prévues par l'aide aux victimes en Suisse comprennent en particulier l'assistance médicale, psychologique, sociale, matérielle et juridique appropriée dont la victime ou ses proches ont besoin à la suite de l'infraction à titre d'aide immédiate ou d'aide à plus long terme (art. 13 et 14 al. 1 LAVI). Ces prestations ont notamment pour but de permettre aux victimes et à leurs proches de reprendre le cours normal de leurs activités et de leur vie d'avant l'infraction. A noter que si l'acte terroriste a eu lieu à l'étranger, les prestations prévues par la LAVI sont restreintes (art. 3 et 17 LAVI).



## **TURKEY**

The Ministry of Justice is carrying out various legislative works on judicial support and victim services. In this context, there are ongoing works to prepare a draft law for the issues to be regulated by law, a draft Presidential Decree for issues related to organization and services and a Draft Regulation on Judicial Support and Victim Services. In this regard, it is envisaged to make legal arrangements that will also enable the victims of terrorist acts to receive an effective support service in the judicial process.

Furthermore, there are ongoing efforts to establish pilot directorates of judicial support and victim services in Istanbul (Anatolian side), Izmir, Adana, Eskişehir, Samsun, Malatya and Rize with the Twinning Project “Strengthening the Victims’ Rights in the Criminal Justice System (acronym being “CEMRE” in Turkish)” carried out with the cooperation of the Department of Victims’ Rights of the Turkish Ministry of Justice and Spain. These directorates also intend to give support after the crime is committed, provide guidance service and psychological support to victims of terrorist acts and prevent post-crime victimization. In addition, it is aimed to spread these services throughout Turkey.

As an outcome of the “Justice for Children Project”, conducted with the cooperation of the Turkish Ministry of Justice and UNICEF between 2012 and 2014, a total of 59 “Forensic Interview Rooms (acronym “AGO” in Turkish)” were set up and entered into service as of 3 April 2017 in 49 provinces and 56 courthouses; these rooms are to be used effectively for taking the statements of other vulnerable groups involved in the judicial process, in particular children and women. These rooms were set up to provide psychological support to the victims through interviewing them in an appropriate environment and with an appropriate method, determine the protection needs of the victims and guide them to benefit from the related services, and ensure that the victims’ statements are taken by experts so as to prevent secondary victimization. In addition, “Regulation on Forensic Interview Rooms” is drafted to determine the functioning and workflow of forensic interview rooms as well as the service and work standards for the experts and other personnel who will be employed to work in these rooms, was entered into force on 24/02/2017.

“The Approach to Victims Guide”, which includes basic principles on how public officials should approach to victims of crime, was drafted by Department of Victims’ Rights of the Ministry of Justice. The guide provides instructions to public officials on matters to be taken into consideration and rules to be followed when they provide assistance to victims who are children, women, elderly and disabled as well as victims of domestic violence, terrorism, torture, human trafficking, discrimination as well as hate crimes and sexual crimes.

**5. In cases of foreign and non-resident victims, does your country cooperate with the victim's State of residence or/and nationality in receiving such assistance?**



**AUSTRIA**

Yes: Cf access to compensation in cross border situations: § 9a VOG; Council Directive relating compensation to crime victims 2004/80/EC.



**BELGIUM**

Conformément à la Directive EU/2004/80, une coopération existe entre les Etats de l'Union européenne pour faciliter l'accès des victimes (terrorisme ou autre) à l'aide financière d'un Etat membre.

En l'état actuel, il n'existe cependant pas d'autre protocole ou directive assurant effectivement une collaboration entre Etats pour les victimes.

Dans son deuxième rapport intermédiaire et provisoire sur le volet « Assistance et secours », la commission d'enquête parlementaire « attentats terroristes 22 mars 2016 » a souligné que si des mesures d'aide ou d'indemnisation peuvent être différentes selon la nationalité ou la résidence des victimes, ces mesures doivent garantir des aides ou indemnités équivalentes à celles qui sont accordées aux victimes de nationalité belge ou résidant en Belgique (Doc., Chambre, 2016-2017, n° 1752/007, p. 19, point 15).

Une interdiction de discrimination figure également dans la directive 2012/29/UE du Parlement européen et du Conseil du 25 octobre 2012 établissant des normes minimales concernant les droits, le soutien et la protection des victimes de la criminalité et remplaçant la décision-cadre 2001/220/JAI qui établit les principes de base pour les victimes de toutes les infractions. L'article 1<sup>er</sup>, alinéa 2, de cette directive est très clair : « Les droits énoncés dans la présente directive s'appliquent aux victimes de manière non discriminatoire, y compris en ce qui concerne leur statut de résident. ». Enfin, le Rapport fait au nom de la Commission de la Santé publique, de l'Environnement et du Renouveau de la société indique que l'ensemble des dispositions du projet de loi devront s'appliquer de manière modulée mais identique aux non-résidents, de sorte que ces derniers puissent également bénéficier du même statut de solidarité nationale. (Doc. Chambre, 2016-17, n° 2334/005, 16).

Pour y répondre, le conseil des ministres du 15/06/2018 (point 10) a chargé les Ministres compétents de fixer les modalités pratiques relatives à l'application du statut de solidarité nationale aux non-résidents. Même si l'intention du législateur a toujours été que l'arrêté royal qui devait rendre applicable les principes de la loi sur les 'victimes non-résidents', devait le faire de manière non discriminatoire,



le législateur a décidé, par souci de transparence et de sécurité juridique, d'inscrire dans la loi même du 18 juillet 2017 son application aux 'victimes non-résidents' (voir la modification apportée à l'article 3,alinéa 3, de la loi du 2017 par l'article 12 de la loi du 15 janvier 2019 modifiant la loi du 1<sup>er</sup> août 1985 portant des mesures fiscales et autres en ce qui concerne l'aide aux victimes du terrorisme):

« La présente loi est d'application aux victimes et aux ayants droit qui n'ont pas la nationalité belge et qui ne résidaient pas de façon habituelle en Belgique comme visé à l'alinéa 2. Le Roi détermine les modalités pratiques selon lesquelles les dispositions de la présente loi s'appliquent. Les frais générés par l'octroi des avantages financiers qui découlent de l'octroi du statut de solidarité nationale aux victimes visées par le présent alinéa sont imputés au Fonds visé aux articles 28 et 42bis, alinéa 5, de la loi du 1<sup>er</sup> août 1985 portant des mesures fiscales et autres.

La victime visée à l'alinéa 3 peut de manière prioritaire demander le statut et les avantages y liés visés par la présente loi.

Sans préjudice de l'alinéa 4, les avantages visés par la présente loi ne peuvent être cumulés avec un mécanisme de solidarité équivalent de l'Etat de nationalité ou du lieu de résidence habituelle si la victime préfère y recourir. »

En plus, comme les postes diplomatiques sont souvent le premier point de contact pour des victimes belges des attentats terroristes à l'étranger et pour des victimes non-résidents en Belgique en cas d'un attentat en Belgique, toutes les ambassades belges à l'étranger ont reçu un courriel qui leur donne un aperçu de l'organisation et des moyens d'aide financière que la Commission pour l'aide financière aux victimes peut octroyer, y inclus les informations sur le statut de solidarité nationale. A l'occasion des journées diplomatiques, les ambassadeurs ont également reçu une explication sur le fonctionnement de la Commission pour l'aide financière aux victimes, en ce compris les informations sur le statut de solidarité nationale.

La Circulaire commune 17/2012 du ministre de la Justice, du ministre de l'Intérieur et du Collège des procureurs généraux concernant, en cas d'intervention des autorités judiciaires, d'une part le traitement respectueux du défunt, l'annonce de son décès, le dernier hommage à lui rendre, la restitution de ses effets personnels et le nettoyage des lieux prévoit également des procédures adaptées, p.e. pour l'annonce du décès, pour les victimes non-résidents.



**CROATIA**

In cases of foreign and non-resident victims, Croatia cooperates with the victim's State of residence or/and nationality, via mechanisms of international police cooperation.



## DENMARK

Generally, Denmark will assist foreign and non-resident victims on a case by case basis. Necessary immediate emergency assistance will be providing no matter the nationality of the victim.

The Ministry of Foreign Affairs of Denmark and the embassy of the victim's State based in Denmark will be able to guide and help the victim.



## ESTONIA

Fortunately, no terrorist acts have been committed in Estonia. Therefore, there is no relevant practical experience. In theory, it would be the Ministry of Foreign Affairs who would contact the relevant authorities.



## FINLAND

Finnish authorities contact the embassy of foreign and non-resident victims.



## FRANCE

Le dispositif français de prise en charge et d'indemnisation des victimes s'applique à toute victime d'un acte de terrorisme commis sur le territoire national, quelle que soit sa nationalité ou son pays de résidence.

En effet, toutes les victimes sont informées sur leurs droits pendant la phase de crise par le dispositif étatique mis en place, notamment par l'envoi d'une notice d'information précisant, entre autres, la possibilité de déposer une plainte ou une demande d'indemnisation auprès du Fonds de garantie des victimes de terrorisme et d'autres infractions. Ces notices sont pour l'instant déclinées en langue anglaise et espagnole.

Concernant la coopération entre la France et l'Etat de résidence et/ou de nationalité de la victime, le ministère de la Justice s'assure auprès des autorités du pays de résidence qu'un accompagnement de la famille et des proches des victimes endeuillées est bien mis en place, notamment un suivi psychologique. Les contacts sont pris soit directement avec les autorités du pays, soit par le magistrat de liaison français, quand il en existe dans le pays concerné, ou encore par le réseau d'associations *Victim Support Europe* (VSE).



## GERMANY

Yes, this type of cooperation takes place. The Federal Ministry for Labour and Social Affairs (*Bundesministerium für Arbeit und Soziales* – BMAS) has a Central Contact Point affected persons who have become victims of a violent act or a

terrorist attack in Germany and have their residence in a foreign country. They may submit their applications for compensation to that Central Contact Point. These are forwarded directly to the competent offices in the *Länder*, who are responsible for paying out compensation to victims in Germany.



## MONACO

En cas d'attentat commis sur le territoire de la Principauté, les victimes étrangères ou non résidentes, ont droit, comme les victimes de nationalité monégasque, à être indemnisées par l'Etat monégasque (Article 3 de la loi n° 1.318 du 29 juin 2006 sur le terrorisme).

Par ailleurs, si une personne de nationalité monégasque est victime d'un acte terroriste sur un territoire étranger, elle bénéficie du soutien de l'Etat monégasque (*Ibid.*).



## MONTENEGRO

Yes, within international legal aid.



## NETHERLANDS

In the Dutch manual (mentioned in the answer to question 3) international cooperation is foreseen. In general, long term assistance will be given in the country where the victim resides and lives. Initial and short-term assistance will be given in the country where the crime is committed.



## NORWAY

There are no systems in place for such cooperation between Norway and other countries when it comes to health care. However, EEA-citizens are entitled to receive support and services in accordance with the EU directive on patients' rights. This includes reimbursement for treatment received in other EEA countries.



## POLAND

Polish authorities cooperate with States of residence or/and nationality of victims of crime on the basis of existing agreements and regulations.



## PORTUGAL

To citizens residing in other EU Member States, which have been victims of crimes committed in Portugal, it is immediately collected testimony after the presentation of the complaint of the crime to the competent authority and for the application, as far as possible, of the provisions on videoconferencing and teleconferencing, for the purpose of providing testimony. Portugal cooperate with the victim's State of nationality or residence by its own initiative or at request.



## SPAIN

Yes, through the consular and diplomatic offices of the country in Spain, providing effective consular and diplomatic assistance in situations of terrorist attacks. Examples: 11-M terrorist attacks in Madrid; August 2017 terrorist attacks in Las Ramblas (Barcelona) and Cambrils.



## SWEDEN

The Swedish Government's international anti-terrorism efforts include working in conflict areas and cooperating with other countries to combat terrorism. The objective of international cooperation is to ensure that law enforcement authorities have good opportunities to cooperate across national borders, for the international collaboration that exists in the area to continue to improve, for standards for maintaining the protection of individuals and reducing society's vulnerability to terrorist attacks to be equal in EU Member States, and for there to be a good capacity to collaborate across national borders. Part of the responsibility of the Swedish Crime Victim Compensation and Support Authority is to contribute to international cooperation in the area of victims of crime, and to ensure that law enforcement authorities have opportunities to cooperate across national borders. Article 26.1 of the Terrorism Directive states that Member States shall ensure that victims of terrorism who are residents of a Member State other than where the terrorist offence was committed have access to information and shall take appropriate action to facilitate cooperation between their competent authorities in that regard. According to the Inquiry (Ministry Publication Series 2018:22) analysing Sweden's implementation of the victims of crime provisions in the Terrorism Directive, Sweden meets these requirements.



## SWITZERLAND

Si l'infraction a eu lieu en Suisse, les victimes et ses proches ont droit aux prestations d'aide aux victimes indépendamment de leur lieu de domicile ou de leur nationalité (art. 1 LAVI). Dans tous les cas, les autorités suisses compétentes coopèrent au besoin avec les autorités compétentes étrangères (p.ex. dans le cadre de la Convention européenne relative au dédommagement des victimes d'infractions violentes; RS 0.312.5)

**6. Has your country undertaken specific measures to effectively investigate terrorist acts without delay ensuring that investigators receive specific victim-sensitive training on the needs of victims?**



**AUSTRIA**

Certain prosecutorial transactions, *inter alia* extremist criminal cases because of terrorist association (§ 278b of the Criminal Code), terrorist offences (§ 278c of the Criminal Code), financing of terrorism (§ 278d of the Criminal Code), according to §§ 278e (training for the purpose of terrorism) and 278f (instructing to commit a terrorist offence) of the Criminal Code or § 282a leg.cit. (instigation and endorsement of terrorist offences) should be assigned to one prosecutor to bundle the specific expertise required to handle such cases. Only in case of a large number of parallel transactions of this type several prosecutors may be entrusted with these duties (§ 4 para. 3 Regulation of the Federal Minister of Justice of 16 June 1986 on the implementation of the Public Prosecution Act, DV-StAG).



**BELGIUM**

Depuis la création du parquet fédéral en 2002 des magistrats ainsi que des enquêteurs spécialisés s'occupent des enquêtes terroristes en consolidant une expertise qui existait déjà au sein de plusieurs parquets. Une législation spécifique adaptée aux actes de terrorisme est en vigueur depuis 2002, ainsi que des juges d'instruction spécialisés depuis 2005.

Il existe également des instructions spécifiques en cas d'attentats terroristes ou de catastrophes majeurs en vue d'aligner les interventions de tous les acteurs du terrain :

- pour la phase aigüe, il convient de renvoyer au plan d'intervention psychosociale dans lequel le ministère public et ses missions sont intégrés(en annexe) ;
- le parquet fédéral a toujours attaché une importance spécifique aux victimes et dispose d'une équipe de magistrats et employés spécifiquement dédiés à cette tâche. Une vraie 'Cellule Victimes', créée spontanément dans le sillage des attentats du 22 mars 2016, a reçu un statut permanent à la suite de la décision de la cellule stratégique interne du parquet fédéral de janvier 2017 ;
- la Circulaire commune 17/2012 du ministre de la Justice, du ministre de l'Intérieur et du Collège des procureurs généraux concernant, en cas d'intervention des autorités judiciaires, d'une part le traitement respectueux du défunt, l'annonce de son décès, le dernier hommage à lui rendre, la

restitution de ses effets personnels et le nettoyage des lieux, est en voie d'actualisation en vue d'y intégrer des directives spécifiques aux acteurs du terrain en ce qui concerne la méthode d'identification spécifique de défunts et de victimes inconscientes non identifiées en général et en cas d'attentats terroristes ou de catastrophes majeures ;

- voir l'accord de principe entre la Police Fédérale et la Commission Permanente de la police locale en ce qui concerne la collaboration entre le DVI et les services d'assistance policière aux victimes du 27 décembre 2018.

Au niveau des services de police, il convient tout d'abord, de renvoyer à la formation de base qui aborde certes la matière de l'assistance policière, notamment via le cluster 8 (accueil et assistance policiers) mais pas de manière spécialement orientée vers les besoins de victimes d'actes terroriste.

Ensuite, il n'existe pas à proprement parler de formations (continuéés ou fonctionnelles) spécifiques dédiées aux victimes d'actes terroristes. Sachant qu'on parle bien ici d'assistance et non pas d'aide urgente (ex : premiers soins). Cependant, il existe des formations développées pour prévenir les faits et limiter les conséquences, parmi lesquelles :

- o La formation 'BDO' (behaviour detection): technique de détection de comportement suspect dans le cadre de la lutte contre le terrorisme, qui proscriit le profilage ethnique pour se baser uniquement sur des indicateurs objectifs ;
- o La formation 'Information officer': destinée aux officiers spécialisés en suivi de données liées aux personnes radicalisées ;
- o La formation 'Tactical Emergency Casualty Care (TECC)': vise à doter les policiers des compétences pour intervenir rapidement et efficacement lors de catastrophes et apporter les premiers soins aux victimes gravement blessées ;
- o La formation 'Casualty Extraction Team (CET)': est essentiellement axée sur la protection des pompiers par des policiers lors d'interventions dans une situation de catastrophe.

Dans le cadre des actes d'enquête sur les lieux de l'attentat, la formation FIC (« Forensic Incident Commander ») vise à coordonner le travail lors d'incidents de grande ampleur: relevés de traces matérielles, structure et harmonisation du travail entre les laboratoires, quadrillage des zones, méthodologies dans la récolte de preuves techniques/scientifique, ...



One of the important principles of the CPC, contained in Article 11, is that the proceedings must be conducted without delay, and in proceedings in which the defendant has temporarily been deprived of freedom, the court and state authorities shall precede with special expedition. The court and other state authorities shall be bound to prevent any abuse of the rights of the procedural participants.

A party, defence counsel, injured person, proxy or statutory representative who by his or her act in a particular manner in criminal proceedings is evidently abusing a right provided for in this Act shall be denied the right to such an act by an order of the court.

Article 229 of the CPC ensures the effectiveness of the investigation. The investigation must be completed within six months from the date on which the decision on the conduct of the investigation became final. Where there are justified reasons for this, the State attorney may extend the time limit by six months at most. Exceptionally, the State Attorney General may prolong the term by six months at most. If upon expiry of the deadline the investigation is not completed, the defendant has the right to file a complaint with the judge of investigation of undue delay of the proceeding. If the judge of investigation establishes that the defendant's complaint is well-founded, he/she shall issue a decision setting the time limit by which the State attorney must complete the investigation.

The CPC also provides for the possibility of carrying out special collecting of evidence in the proceedings for terrorist offenses. Such special measures, which temporarily restrict certain constitutional rights of citizens, may be determined by the judge of investigation in a written, reasoned warrant, on a written reasoned request of the State attorney, against a person for whom there are grounds for suspicion that he or she committed or has taken part in committing the criminal offense from Article 334 of the CPC (terrorism, among other criminal offenses), if the investigations of criminal offenses could not be carried out otherwise or would only be possible with disproportionate difficulties.

These measures include:

- 1) surveillance and technical recording of telephone conversations and other means of remote communication;
- 2) interception, collecting and recording of computer data;
- 3) entry into premises for the purpose of conducting surveillance and making technical recordings of the premises;
- 4) covert tailing and technical recording of individuals and objects;
- 5) use of undercover investigators and confidants;
- 6) simulated sales and purchases of objects, simulated bribe-giving and simulated bribe-taking;
- 7) provision of simulated business services or conclusion of simulated legal transactions;
- 8) controlled transport and delivery of objects of a criminal offence.

By way of exception, where circumstances require that actions be taken immediately, and if the State attorney has reason to believe that he will not be able to obtain the investigating judge's warrant in time, the warrant to conduct special collection of evidence may be issued by a State attorney for a period of twenty-four hours (except for interception, collection and recording of computer data and entry into premises for the purpose of conducting surveillance and making technical recordings of the premises if their implementation requires entry to the home). The judge of the investigation decides by a decision on the lawfulness of a State attorney's warrant.

Surveillance and technical recording of telephone conversations and other means of remote communication may also be ordered against persons against whom there are grounds for suspicion that they are disclosing to or from the perpetrator of any of the offences referred to in Article 334 of this Act information and messages in connection with the offence in question or that the perpetrator is using their telephone connection or some other telecommunication device, who are hiding the perpetrator of a criminal offence or are assisting him so as to prevent his discovery by concealing the means by which a criminal offence was committed, the traces of a criminal offences or objects resulting from or acquired through the commission of a criminal offence or otherwise.

Investigators receive specific victim-sensitive training on the needs of victims. In 2017 three two – day workshops on this topic was organised by Judicial Academy, for judges, state attorneys, police officers and members of the centres for social welfare. There were 77 participants attending these workshops.



## DENMARK

In 2006, the Danish government established NOST (Den Nationale Operative Stab).

NOST is a cooperation between multiple Danish authorities, including the Danish police (Rigspolitiet), the Danish Police Intelligence Unit (Politiets efterretningstjeneste), the Defence Command (Værnsfælles Forsvarskommando), the Defence Intelligence Service (Forsvarets Efterretningstjeneste), Emergency Management Agency (Beredskabsstyrelsen), the Health and Medicines Authority (Sundhedsstyrelsen), the Transport, Construction and Housing Authority (Trafik., Bygge- og Boligstyrelsen and the Danish Ministry of Foreign Affairs.

NOST coordinates the authorities' work in a crisis situation, e.g. a terror attack, ensuring that the resources is allocated where it is needed.

Additionally, the Danish Police recently launched new guidelines for, how police officers shall handle witnesses of serious crimes, including the victims. This includes having a designated police officer be the contact person for the witness to ensure a safer environment for the witness.





## ESTONIA

Fortunately, no terrorist acts have been committed in Estonia. Nevertheless, the police and prosecution are competent to effectively investigate terrorist acts without delay. Victim-sensitive training has been provided to the police. As per § 37<sup>2</sup> of the Code of Criminal Procedure, the body conducting proceedings is obligated to assess whether any circumstances exist which give reason to believe that the victim who is a natural person requires special treatment and protection in criminal proceedings.



## FRANCE

Dès 1986, la France a fait le choix de centraliser le traitement des procédures en matière de terrorisme au sein d'une seule juridiction, le tribunal de grande instance (TGI) de Paris. La loi n° 86-1020 du 9 septembre 1986 relative à la lutte contre le terrorisme et aux atteintes à la sûreté de l'Etat définit la notion de terrorisme et indique les conséquences procédurales. Elle ouvre la voie à une centralisation des procédures au TGI de Paris.

La loi n° 86-1322 du 30 décembre 1986 complète la loi précitée, notamment en créant une cour d'assises spécialement composée (comprenant uniquement de magistrats) pour juger les crimes terroristes.

Depuis l'origine, le choix de cette centralisation est destiné à garantir l'exercice d'une direction d'enquête unique, assise sur une politique pénale opérationnelle face un phénomène d'une ampleur exceptionnelle et en perpétuelle mutation. Cette centralisation s'opère par la mise en place d'un mécanisme de compétence concurrente à l'égard des juridictions de droit commun en matière terroriste<sup>49</sup>.

Ainsi, conformément aux circulaires de politique pénale, dès lors qu'un fait est susceptible de revêtir un caractère terroriste, les parquets répartis sur le territoire national doivent se rapprocher de la section antiterroriste du parquet de Paris, afin d'apprécier l'opportunité de se dessaisir au profit de cette dernière. Ceci permet aux juridictions parisiennes d'exercer *de facto* une compétence exclusive pour le traitement des crimes et délits terroristes les plus graves.

Les enquêtes diligentées par la section antiterroriste du parquet de Paris sont confiées à des services de police spécialisés : la Direction générale de la sécurité intérieure (DGSJ), la Sous-direction antiterroriste de la direction centrale de la police judiciaire (SDAT) et la Section antiterroriste de la brigade criminelle de Paris (SAT-BC), qui disposent tous d'enquêteurs « référents victimes ».

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<sup>49</sup> Conformément aux dispositions de l'article 706-17 du code de procédure pénale, qui prévoit une compétence concurrente du tribunal de grande instance de Paris à l'égard des juridictions de droit commun, et aux circulaires de politique pénale rédigées par la suite.

Un magistrat de la section antiterroriste du parquet de Paris est également désigné et chargé de façon permanente du suivi de toutes les questions relatives aux victimes.

En plus de ce dispositif permanent et en cas d'attentat terroriste, dès l'ouverture d'une enquête par la section antiterroriste du parquet de Paris, le dispositif spécifique relatif aux victimes est le suivant :

La désignation, par le procureur de la République de Paris, dans le cadre de la gestion de l'enquête, d'un ou plusieurs magistrats référents « victimes » au sein de la section antiterroriste du parquet de Paris : ils sont plus particulièrement chargés de la conduite des investigations ainsi que du suivi des opérations de dénombrement et d'identification des victimes, des opérations de médecine légale et des annonces de décès.

La désignation, au sein du service enquêteur coordonnateur d'un officier de police judiciaire référent « victimes » : affecté au recueil des renseignements indispensables à l'identification des victimes, il met en place les différents pôles de « l'atelier victimes » : la chaîne d'identification à l'institut médico-légal, l'accueil des familles au « centre d'accueil des familles » et le dispositif de recueil des plaintes. Dans chacun de ces pôles, ainsi qu'à l'accueil des victimes impliquées, il s'assure de la présence d'enquêteurs. Il est l'interlocuteur de la section antiterroriste du parquet de Paris pour toutes les questions relatives aux victimes dans l'enquête judiciaire. Il se déplace avec le magistrat référent victimes entre l'institut médico-légal, le centre d'accueil des familles, la cellule interministérielle d'aide aux victimes et les réunions de la commission d'identification.

En outre, l'ensemble des magistrats de la section antiterroriste du parquet de Paris sont sensibilisés à la situation des victimes du terrorisme et à la nécessité de demander aux enquêteurs :

- d'identifier clairement les victimes ou leurs ayant-droit en cas de décès ;
- de faire évaluer les préjudices physique et psychologique par un médecin ;
- de transmettre dès que possible par fax les procès-verbaux comprenant l'identification des victimes ou des ayant-droit (noms et adresses), procès-verbaux transmis dès réception au référent victimes pour saisine du Fonds de garantie des victimes de terrorisme et autres infractions ;
- lors des réunions organisées avec les victimes, de permettre la présentation par ces magistrats des dispositions juridiques parfois complexes liées aux circonstances des décès des victimes (disparition par exemple) et des droits propres aux victimes d'actes de terrorisme, ou encore la remise des documents obtenus auprès du Fonds (fiches d'information, formulaires) ;
- de systématiser la saisine des associations d'aide aux victimes de leur lieu de résidence, en liaison avec le service de l'aide aux victimes du ministère de la Justice (SADJAV) et les parquets locaux ; et
- d'être en relation avec les associations de victimes du terrorisme<sup>50</sup>.

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<sup>50</sup> Schéma départemental d'aide aux victimes : <https://www.tribunal-de-paris.justice.fr/sites/default/files/2018-09/SDAV%202018%20version%20finale.pdf>.



## GERMANY

The Federal Public Prosecutor General (*Generalbundesanwalt* – BGA) has created the conditions for the rapid establishment of a Central Contact Point for victims and their relatives in the case of an attack in Germany motivated by terrorism. The mission of the “task force of victim-advocate prosecutors” (“task force”) will be to function as a single point of contact for the GBA for crimes within its jurisdiction; in close cooperation with the competent police authorities, the Federal Criminal Police Office, and the offices leading the investigation, it focuses on collecting and verifying information on injured parties and their whereabouts immediately following an attack. In order to lose as little time as possible in collecting and forwarding information, members of the task force are to travel to the relevant location even before final clarification of the question of whether a major damage incident is a terrorist attack, therefore calling for formal assumption of an investigation proceeding by the GBA, and take up contact on site with the operational section on victim support of a “special organisational structure” established at the initially responsible Land police office. Members of the task force may perform counselling services if necessary and monitor gathering of information in order to be able to take immediate action directly following the assumption of the proceedings by the Federal Public Prosecutor General. As a parallel measure, in Karlsruhe at the public prosecutor general’s headquarters, a corresponding working unit has been established in order to coordinate the activities of the task force with the investigation.

After the proceedings have been taken over by the GBA, the work of the task force includes coordinating the compilation of victim lists, applying for legal review and release of the investigation results to provide information to victims’ relatives, victims and other authorised individuals, applying for autopsies, making decisions on release of bodies and granting of undertaker access, functioning as a contact point for the Central Victim’s Support Offices at the Federal and *Land* levels as well as the ministries, in addition to maintaining special files on injured persons.

The work of the task force continues after the situation has come under control. While the GBA is not responsible for questions of compensation, depending on the status of the proceedings additional issues relating to criminal procedure may become relevant for victims and/or their relatives. Previous experience has shown that victims and/or their relatives have a positive reaction to having uniform contact persons during the investigation and/or at trial. Also, the task force is responsible for coordinating the cooperation of the Federal Public Prosecutor General with other authorities in terms of victim concerns, in order to be able to pass on without delay information which, for example, might be necessary for compensation payments.



## MONACO

En l'absence de mesures spécifiques, les enquêtes s'effectueraient sans délai par nature, du fait des conséquences très importantes d'un éventuel acte à caractère terroriste à l'échelle du Pays.

Il convient de noter que le bon comportement à adopter en fonction de la qualité d'une personne, et notamment de sa situation de victime, figure au titre des modules de formation des personnels de police.



## MONTENEGRO

No.



## NETHERLANDS

In the Netherlands, a training on the treatment of victims is available for investigators.



## POLAND

The principles of effective investigation into cases concerning acts of terrorism, and also aspects of the protection of the rights of victims, are the subject of both general training during the prosecutor's apprenticeship course and of specialist training for prosecutors.

Prosecutors also take part in developing methodologies for conducting respective investigative actions in the event of terrorist acts. The developed methodologies concern, for example, the inspection of the place where terrorist offences have occurred and the identification of victims' bodies. They also address the issue of organising assistance for families and persons being next-of-kin of victims.

The position of a victim in criminal proceeding is also a part of training for Police officers deployed to conducting investigations requiring a particular victim-sensitive approach, especially toward victims of aggravated crimes.

Training for authorities conducting criminal proceedings and their staff in order to raise their competence in dealing with victims of crime and witnesses is also one of the areas supported by the resources of the Assistance Fund for Victims and Post-penitentiary Assistance.

The Act of 10 June 2016 on Antiterrorist Actions envisages an extraordinary procedure of preparatory proceedings in criminal investigations regarding terrorist crimes. Among the measures that could serve effective investigation one could mention the possibility under Article 25 of the Act for the prosecutor to

issue a warrant to search an entire specified area in order to seize evidence or detain perpetrators (whereas general rules refer to searching of persons or premises which must be precisely named in a warrant). The abovementioned search may be carried out at any time (while general rules allow to perform them between 6 a.m. and 10 p.m.).

Article 26 of the Act introduces an extraordinary procedure regarding preliminary custody of persons suspected of committing a terrorist crime. In such cases, the court, acting upon a motion of a prosecutor, may order a pre-trial detention for up to 14 days on the basis of a plausible assertion that the person in question committed, prepared or aided in committing a terrorist crime. Moreover, charges for committing a terrorist crime may be brought on the basis of information gathered through secret surveillance (namely: surveillance by intelligence services or the Police).

Such extraordinary measures are justified by the gravity of terrorist offences and allow for speedy gathering of information and detaining suspects.



## PORTUGAL

YES. According to Law no. 96/2017, of 23 August, terrorism is one of the crimes of priority investigation.

Law enforcement authorities and public officials, including officials in the courts who are likely to come into contact with victims receive appropriate general and specialized training in order to increase their awareness of the needs of victims and to enable them to be treated in a non-discriminatory manner and with respect and professionalism.



## SPAIN

The expression “*investigators*” would correspond to Spanish National Security Forces, who are trained to deal with the highest respect to victims of terrorism and their families, according to Spanish Act 29/2011 of 22 September, and the other pieces of our legislation and who can always count on the support of the team of social workers of the Direction General to support victims of terrorism.



## SWEDEN

For prosecutors there is no special training on how to treat victims of terrorism. However, there is a great deal of knowledge, training and methodology support for how best to treat victims of crime in general.



## SWITZERLAND

Le code de procédure pénale (CPP; RS 312.0) ne prévoit pas de procédure particulière en cas d'acte terroriste. Les autorités de police ont toutefois la possibilité de procéder à des investigations et de mener des auditions sans retard. Avec l'aide de la Coordination opérationnelle TETRA (TErrorist TRacking) sous la direction de l'Office fédéral de la police, les autorités engagées dans la lutte contre le terrorisme coordonnent et optimisent leur travail. Les auditions seront menées exclusivement par des spécialistes. L'implication des victimes dans la procédure pénale a toujours lieu en tenant compte du besoin de protection respectif des personnes, leur âge, leur état mental, etc.

### 7. Has your country recognise a proper position of victims in criminal proceedings?



## AUSTRIA

Yes: According to § 66 para. 2 CCP the rights of victims in criminal proceedings include

1. to be represented (§ 73),
  - 1a. to receive written confirmation of their report of a crime (§ 80 para. 1),
  - 1b. to have their special protection needs assessed as soon as possible (§ 66a),
2. to access files (§ 68),
3. to obtain information about the subject matter of the proceedings and about their principal rights before questioning (§ 70 para. 1),
4. to be notified about the progression of the proceedings (§§ 177 para. 5, 194, 197 § 3, 206 and 208 § 3),
5. to obtain interpretation aid through an interpretation service according to para. 3,
6. to participate in the adversarial examination of witnesses and accused (§ 165) and in a re-enactment of the crime (§ 150 para. 1),
7. to be present during the main trial, to question the defendant, witnesses and expert witnesses and to be heard concerning their claims,
8. to demand resumption of proceedings that were ceased by the prosecution authority (§ 195 para. 1).

Upon request, victims within the meaning of § 65 subpara. 1 lit. a or b CCP are to be afforded psychosocial and legal support for the proceedings that is free of charge, insofar as this is necessary to preserve the rights of the victim, taking into account their personal concerns (§ 66 para. 2 CCP). Victims whose sexual

integrity might have been violated and who are under the age of 14 are afforded psychosocial support for the proceedings in any case. Psychosocial support for the proceedings includes the preparation of the person concerned for the proceedings and for the emotional stress associated with the proceedings as well as accompanying the person to questioning during investigation proceedings and at trial; legal support for the proceedings includes legal advice and representation by an attorney. The Federal Minister for Constitution, Reforms, Deregulation and Justice is authorised to enter into agreements with established, suitable institutions so that they, after assessing the statutory requirements, provide support for the proceedings to victims within the meaning of § 65 subpara. 1 lit. a or b CCP and victims of terrorist offenses according to § 278c of the Criminal Code.

If the prosecution authority ceased the investigation proceedings according to § 190 CCP, § 195 CCP grants the victim a motion for continuation of investigation proceedings. If criminal proceedings are not barred by statutes of limitations, at the request of the victim, the court has to order the continuation of the investigation if the law was violated or applied incorrectly, there are serious concerns regarding the accuracy of the material facts on which the decision to close the proceedings was based, or new material facts or pieces of evidences are provided.



## BELGIUM

Les victimes d'une infraction ont différentes possibilités d'intervenir dans la procédure pénale, dont un bref aperçu est donné ci-après.

L'article 4 du Titre préliminaire du Code d'instruction criminelle donne à la victime d'une infraction une option : elle peut porter son action soit devant la juridiction répressive, soit devant la juridiction civile. Ce choix est absolument libre pour la victime. L'action civile et l'action publique sont bien distinctes : l'action publique peut être exercée même si l'infraction n'a pas causé de dommage ou si la victime de l'infraction ne dépose pas une réclamation en dommages et intérêts ; l'action civile peut être exercée même s'il n'y a pas d'action publique qui est mise en route.

L'action civile peut être portée devant les juridictions répressives, en principe, à la condition que celles-ci soient saisies de l'action publique « en même temps et devant les mêmes juges ». Pour le juge pénal, l'action civile est l'accessoire de l'action publique.

Qualité de personne lésée :

La qualité de personne lésée peut être obtenue soit en remettant un formulaire type complété lors de l'audition à la police, soit en remettant ce formulaire plus tard dans un bureau de police ou au secrétariat du parquet, soit en envoyant ce formulaire par lettre recommandée au secrétariat du parquet. La personne lésée a le droit d'être informée de l'éventuel classement sans suite et de son motif, de

l'ouverture d'une instruction et de la fixation d'une date d'audience devant la juridiction d'instruction ou de jugement. Elle peut également faire verser au dossier tous les documents qu'elle juge utiles. La personne lésée a également le droit de demander l'autorisation de consulter le dossier et d'en obtenir copie. Si le dossier est à l'information, cette demande peut être adressée au procureur du Roi. Si le dossier est à l'instruction, elle peut être adressée au juge d'instruction. À la fin de l'instruction, au moment où l'affaire est examinée par une juridiction d'instruction, la personne lésée est également avertie que le dossier est à sa disposition au greffe (pour consultation et/ou copie).

Si l'affaire est portée devant la juridiction de jugement, le simple fait d'introduire une plainte ou de revêtir la qualité de personne lésée ne suffit pas pour être indemnisé des dommages subis. Elle doit s'adresser à la juridiction de jugement par le biais d'une action civile – appelée constitution de partie civile – ou peut également opter pour une action purement civile en s'adressant au juge civil (voir infra).

**Dommages et action civile :**

En se constituant partie civile, la victime peut non seulement demander une indemnisation, mais elle bénéficie également d'un certain nombre de droits dans la procédure pénale :

- sous certaines conditions et à des moments précis, elle peut demander au juge d'instruction de consulter le dossier répressif, plus précisément la partie qui a trait aux faits qui ont conduit à la constitution de partie civile ;
- sous certaines conditions également, elle peut demander au juge d'instruction l'accomplissement d'actes d'instruction complémentaires.

Si la juridiction de jugement déclare son action civile recevable et fondée, elle peut également exercer un certain nombre de droits dans la phase de l'exécution de la peine. La victime peut se constituer partie civile de différentes manières et à différents moments. La victime peut le faire par simple déclaration devant le juge d'instruction. Si aucune instruction n'est en cours, elle doit pour cela consigner une certaine somme d'argent (consignation). Si une instruction est en cours, la partie civile se joint à l'action publique. La victime peut également se constituer partie civile à la fin de l'instruction, au moment où l'affaire est examinée par une juridiction d'instruction ou lors de l'audience de la juridiction de jugement, mais plus lorsque l'affaire est déjà traitée en degré d'appel.

**Citation directe :**

Pour les contraventions et les délits, il est possible pour la victime de procéder par citation directe. Pour ce faire, l'auteur des faits doit être cité via l'intervention d'un huissier et lors d'audience, la victime doit se constituer partie civile. Une citation directe n'est pas possible à l'égard d'un mineur.

**Recours :**

Il existe une possibilité de recours. La victime peut interjeter appel parce que :

- la juridiction de jugement a rejeté la demande d'indemnisation ;
- la victime estime que le montant octroyé est insuffisant. La victime ne peut toutefois pas interjeter appel parce qu'elle n'est pas d'accord avec la peine imposée. Seul le ministère public peut le faire. L'appel a pour effet de faire réexaminer l'affaire par une instance supérieure.



Dans le cadre d'une procédure civile :

La victime peut également opter pour une action purement civile en s'adressant au juge civil. Dans ce cas, la victime doit apporter la preuve de la faute qui a été commise et le juge civil doit attendre la clôture de l'affaire devant la juridiction de jugement avant de se prononcer.

Dans le cadre de l'exécution de la peine :

Il existe différentes modalités d'exécution de la peine de prison, comme par exemple la surveillance électronique et la libération conditionnelle. Ces modalités sont en général assorties de conditions que le condamné doit respecter pendant un certain délai. Ces conditions sont de deux types : des interdictions (de fréquenter certains lieux par exemple) et des obligations (de suivre une thérapie par exemple).

La victime peut bénéficier de certains droits lors de l'exécution de la peine de prison. Pour ce faire, elle peut demander à être associée à la procédure d'exécution de la peine de l'auteur au moyen d'une « déclaration de la victime ». La victime a le droit de demander d'être informée en cas d'octroi d'une modalité de l'exécution de la peine par le tribunal de l'application des peines.

La victime a également le droit de formuler des conditions qui pourraient être imposées dans son intérêt qui pourraient être imposées lorsqu'une modalité d'exécution de la peine est octroyée

La victime peut également demander à être entendue par le tribunal de l'application des peines. A cette fin, le législateur a défini 'un moment consacré à la victime durant l'audience' du tribunal de l'application des peines. Ce moment est entièrement consacré à la thématique des victimes pour permettre à la victime de motiver les conditions qu'elle demande en sa faveur et de les situer dans le contexte de son vécu et de son assimilation psychologique de l'événement. Le ministère public et, le cas échéant, le directeur de la prison, s'il a formulé ces conditions relatives à la victime dans son avis, exposent à ce moment de l'audience, en présence de la victime, les raisons pour lesquelles ils proposent l'imposition de conditions en faveur de la victime. Pour ce faire, un véritable débat peut avoir lieu, permettant au tribunal de l'application des peines d'adapter et d'affiner la formulation des conditions en faveur de la victime. La victime est présente à l'audience le temps nécessaire à ce débat.

Les mêmes droits sont prévus en cas d'internement de l'auteur.

Dans ce cadre il est également important de renvoyer vers l'accord et les protocoles de coopération entre tous les niveaux concernés en ce qui concerne l'assistance aux victimes et qui ont instauré une coopération structurelle entre l'État fédéral et les autorités fédérées compétentes ainsi que les services d'assistance aux victimes qu'ils organisent, agréent et subventionnent:

- l'accord de coopération du 7 avril 1998 entre l'État fédéral et la Communauté flamande en matière d'assistance aux victimes ;
- le protocole d'accord du 5 juin 2009 entre l'État fédéral, la Communauté française et la Région wallonne en matière d'assistance aux victimes ;

- le protocole d'accord du 5 juin 2009 entre l'État fédéral, la Communauté flamande, la Communauté française, la Commission communautaire française et la Commission communautaire commune en matière d'assistance aux victimes :
- le protocole d'accord du 5 juin 2009 entre l'État et la Communauté germanophone en matière d'assistance aux victimes ;
- la circulaire commune du ministre de la Justice et du Collège des procureurs généraux près les cours d'appel COL 16/2012 relative à l'accueil des victimes au sein des parquets et des tribunaux.



## CYPRUS

According to article 12 of the above Law, (a) victims may participate in the criminal proceedings as witnesses and may provide evidence in accordance with the criminal procedural rules and the rules of evidence in force in the Republic. (b) Prosecuting authorities and any other department involved shall take appropriate measures to ensure that victims are examined and interrogated only in so far as is necessary for the purposes of the criminal proceedings and in accordance with the criminal procedural rules applicable in the Republic.



## DENMARK

Denmark continuously seeks to strengthen the rights of the victims in criminal cases. This includes a right to know the outcome of the criminal proceedings, if the victim wishes to know. Additionally, on the request of the victim, the victim will be notified of the perpetrator's exit from prison, if the perpetrator participates in public interviews etc.



## ESTONIA

Yes, as per § 38 of the Code of Criminal Procedure, a victim has numerous procedural rights in criminal proceedings, including but not limited to the right to file a civil claim, contest a refusal to terminate proceedings, give evidence etc.



## CROATIA

The body conducting the questioning of the victim (police, State attorney, court) is required to take into account the needs of the victim, as provided for in Article 43 a) of the CPC, introduced into law in order to transpose Directive 2012/29/EU, which regulates an individual assessment of the victim.

The individual assessment shall include establishing whether there is a need to take special protection measures in respect of the victim and if yes, which ones (special method of questioning the victim, use of communication technology so as to avoid visual contact between the victim and the perpetrator and other measures provided for by law). Where the victim of a criminal offence is a child, it shall be presumed that special protection measures need to be taken and it shall be established which ones.

An individual assessment provides for an individual approach of the competent authorities to each victim, whose ultimate aim is to determine, depending on the circumstances of the particular case, whether there is a risk of secondary and repeated victimization of a victim and the risk of intimidation and retaliation during the criminal proceedings. Given that sometimes a multidisciplinary approach is needed for the implementation of an individual assessment, it is noted that the aforementioned bodies will make the evaluation in close cooperation with the bodies, organizations or institutions for assistance and support to victims of criminal offenses, within which experts with special foreknowledge and expertise in the area of victimology are employed or working, without whose active participation in some cases it would not be possible to assess in a good and comprehensive way the individual needs of each victim.



## FINLAND

Yes. In Finland, victims of crime have the status of complainant in criminal proceedings. Thus, they have a proper procedural status of a victim. In the case of homicide, also the family members of the victim may have the status of complainant, if they have claims against the perpetrator.



## FRANCE

Les victimes d'actes de terrorisme, comme d'autres infractions, peuvent se constituer partie civile dans le cadre de la procédure judiciaire.

Aux termes de l'article 80-3 du code de procédure pénale, dès le début de l'information judiciaire, le juge d'instruction doit avertir la victime d'une infraction de l'ouverture d'une procédure, de son droit de se constituer partie civile et des modalités d'exercice de ce droit. Si la victime est mineure, l'avis est donné à ses représentants légaux.

En vertu du même article, cet avis indique à la victime qu'elle a le droit, si elle souhaite se constituer partie civile, d'être assistée d'un avocat qu'elle pourra choisir ou qui, à sa demande, sera désigné par le bâtonnier de l'ordre des avocats, en précisant que les frais seront à sa charge, sauf si elle remplit les conditions d'accès à l'aide juridictionnelle ou si elle bénéficie d'une assurance de protection juridique. Toutefois, les victimes de crimes d'atteintes volontaires à la vie ou à l'intégrité de la personne, que sont les victimes de d'actes de terrorisme, peuvent bénéficier de l'aide juridictionnelle sans condition de ressources pour exercer une action civile en réparation. Il en est de même pour leurs ayants-droits. Lorsque le juge d'instruction est informé par la victime qu'elle se constitue partie civile et qu'elle demande la désignation d'un avocat, il en informe sans délai le Bâtonnier de l'ordre des avocats.

Afin de simplifier le parcours procédural des victimes d'acte de terrorisme en renforçant les garanties qui leur sont offertes, une réforme est actuellement en cours d'adoption<sup>51</sup>. Elle consiste à donner une compétence exclusive au tribunal de grande instance de Paris pour connaître, en cas de poursuites pénales en matière de terrorisme, de l'ensemble des litiges liés à la reconnaissance de la qualité de victime et à la réparation de leur préjudice. Cette compétence exclusive sera de nature à garantir l'unité de la jurisprudence et l'égalité de traitement des victimes d'acte de terrorisme dans leur parcours indemnitaire.



## GERMANY

Protection of victims in criminal proceedings has been a very high priority in Germany for many years. Since the passage of the Victim Protection Act on 18 December 1986, the rights of victims have been continually expanded and strengthened. Certain victims of criminal offences may join the criminal proceedings as private accessory prosecutors. Private accessory prosecutors have special procedural rights. For example, they have the right to attend the entire proceedings, they are able to make evidentiary motions and challenges for bias and may assert compensation for damage in the criminal proceedings. Victims who are particularly at risk have the opportunity to receive professional assistance both during and after trial. In particular, psychosocial support is available free of charge to children and young people who have become victims of serious sex or violent crimes.

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<sup>51</sup> Loi de programmation 2018-2022 et de réforme pour la justice, en cours d'examen par le Conseil constitutionnel, qui a été saisi le 21 février 2019.



## MONACO

Dans les procédures pénales, les victimes d'actes terroristes pourraient avoir la qualité de « partie civile ».

A cet égard, on relèvera que l'action en indemnisation, recevable « *indistinctement pour tous chefs de dommages, aussi bien matériels que corporels ou moraux* » (art. 2 du Code de procédure pénale), peut être poursuivie en même temps et devant les mêmes juges que l'action publique (article 3 du Code de procédure pénale).

L'article 73 du Code de procédure pénale apporte une précision essentielle en disposant que « *toute personne lésée par un crime, un délit ou une contravention, ou admise en vertu de l'article 68 à porter plainte pour autrui, peut se porter partie civile devant le tribunal compétent, en tout état de cause, jusqu'à la clôture des débats* ».

Par ailleurs, l'article 74 du même Code prévoit que « *la personne lésée par un crime ou un délit peut également saisir de sa constitution de partie civile un juge d'instruction* ».

De plus, conformément à l'article 75 du Code de procédure pénale, « *la personne lésée par un délit ou une contravention peut en citer directement l'auteur devant le tribunal compétent* », celle-ci est alors « *réputée être partie civile par le seul fait de la citation* ».

Il résulte de ce qui précède que les victimes d'actes terroristes pourraient demander la réparation de leurs dommages, mettre en mouvement l'action publique, et devenir parties à la procédure, ce qui leur ouvrirait les droits attachés à cette qualité, tel que celui prévu à l'article 91-1 du Code de procédure pénale, permettant de saisir le juge d'instruction d'une demande écrite et motivée tendant à ce qu'il soit procédé à leur audition, à l'audition d'un témoin, à une confrontation ou à un transport sur les lieux, ou à ce que soit ordonné la production par l'une des parties d'une pièce utile à l'information.



## MONTENEGRO

The term „injured party“ is defined in the Article 22 of the Criminal Procedure Code. „The injured party is a person whose personal or property right of some type was violated or endangered by a criminal offence.“

The injured party/victim (hereinafter referred to as „the injured party“) in criminal proceedings has certain rights and obligations. Rights of the injured party are linked to his competence as well as the fact that the injured party is the most often the victim of a criminal offense.

The term „victim“ is adopted in the Article 142 p. 11 in amendments and additions to the Criminal Code of Montenegro in 2013 : „A victim is a person who

has suffered physical or emotional harm, property damage or violation of human rights and freedoms as a result of a crime, which is prescribed by law as a crime.“

The injured party has a right to report criminal offence and to bring the criminal charge.

When a State Prosecutor establishes that there is no basis for prosecution for a criminal offence that is prosecuted by virtue of office he shall inform the injured parties, instruct them that they may take over the prosecution themselves and deliver them a decision on the rejection of the criminal charge. He shall deliver a decision on the rejection of the criminal charge to a person who brought criminal charge and to a injured party, in case it is not the same person.

Criminal Procedure Code of Montenegro provides strengthening of legal provisions in reference to the rejection of the criminal charge and provides a possibility to a person who brought the criminal charge or to a injured party to issue a claim on the decision of rejection of the criminal charge.

If a State Prosecutor does not initiate prosecution or withdraws from criminal proceedings, the injured party shall have the right to undertake, i.e., continue prosecution as a subsidiary prosecutor, and in that case he has the same rights as the State Prosecutor.

If the subsidiary prosecutor dies pending the term for assuming prosecution or pending the proceedings, his/her spouse, extramarital partner, children, parents, adopted children, adoptive parents, siblings may within three months after his/her death assume prosecution i.e. make the statement that they shall continue the proceedings.

The injured party has a possibility to propose to the court to carry out measures of supervision to the accused person. The following specific measure provides the presence of an accused person.

In cases when the criminal procedure is conducted for a criminal offence punishable by an imprisonment sentence exceeding three years and the injured party cannot bear representation expenses according to his/her financial standing, s/he may be appointed a proxy at his/her request if the representation of the injured party by the proxy is in the interest of fairness. If the injured party is a minor, during the entire criminal procedure the court shall by virtue of office assess whether s/he needs to be appointed a proxy.

In the course of investigation, injured parties shall be entitled to bring to the attention to all facts and to offer evidence important for the criminal case and for their claim under property law likewise; he can give proposals to the State Prosecutor to take over certain actions. Regarding the principle of open investigation, an injured party may attend the interrogation of the accused person, hearing of an expert witness, the crime scene investigation, witness hearings, reconstruction and he may be present at the search of dwelling.

The injured party, who attend these actions, can propose to the State Prosecutor to, for the purpose of clearness, bring certain questions to the accused, shall be entitled to offer evidence, to examine the defendant, witnesses and expert witnesses and to put forward remarks and explanations as regards their statements as well as to make other statements and proposals. The injured party is also entitled to request that his objections as to carrying out certain actions be entered in the records and may propose that certain evidence be examined. If a State Prosecutor orders an investigation to discontinue, he shall deliver a decision on the cessation of procedure to the injured party and instruct the injured party on the right to take over the prosecution himself (as a subsidiary prosecutor).

In the stage of accusation i.e. during the procedure of control of the indictment by the panel, the injured party may file an appeal against the decision of the panel by which discontinues proceedings or rejects the indictment.

The interests of the injured party are particularly appreciated during the negotiation on the agreement on the admission of guilt, which is a relatively new institute in the criminal legislation of Montenegro and his participation in this process is enabled with the right to : attend the negotiation and to appeal against the concluded i.e. adopted agreement on the admission of guilt.

The injured party has right to attend the main hearing and he cannot be excluded from the main hearing (in case of exclusion of public). At the beginning of the main hearing, if the injured party is present and he has not submitted his claim under property law yet, the Chair of the Panel shall instruct him that he may file such a claim in the criminal proceedings and shall instruct him of the rights laid down in Article 58 of the Criminal Procedure Code of Montenegro.

Until the closing of the main hearing, the injured party may propose to clarify new facts, obtain new evidence and attend presenting of evidences.

Regarding the hearing of the injured party as a witness, the general rules on hearing a witness are applied. After the presentation of evidence is completed, the injured party has a right to explain his claim under property law, through the closing arguments, and point out the evidence on the guilt of the accused.

Regarding the proceedings upon legal remedies, the injured party as an entity of the appeal has a right to appeal against judgment.

 <b>NETHERLANDS</b>
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Yes. In the Netherlands, during recent decades the position of victims in criminal procedures has been developed into a detailed legal framework. Furthermore, the EU-directive on victim's rights, as mentioned in the answer to question 1, has been implemented in national law.



## NORTH MACEDONIA

See reply to question 3.



## NORWAY

The Criminal Procedure Act chapters 8 a and 9 a grant victim of crime, including terrorism, several rights in criminal proceedings. If the victim is dead, many of these rights are given to surviving family members.

The most extensive rights are granted to victims who qualify for appointed counsel financed by the state. The counsel shall protect the victims' and the surviving family members' interests in connection with the investigation and the main hearing of the case. The counsel shall also provide such additional assistance and support as is natural and reasonable in connection with the case.

A victim is entitled to the assistance of a state financed counsel where there is reason to believe that he or she, as a result of the criminal act, will incur considerable harm to body or health. Parents of a deceased victim under the age of 18 also qualify for a state financed counsel. Furthermore, the court may appoint counsel in other cases if it is required by special circumstances.

The victim and the surviving family members are granted rights such as the right to information, the right to participation and contradiction and the right to pursue civil claims. The right to information may, *inter alia*, include information on the progress of the case and the investigation, as well as access to police documents. The right to participation and contradiction may include the right to suggest supplementary evidence, be present in the criminal court proceedings, ask questions to the accused and witnesses through the counsel and give a victim impact statement. The right to pursue civil claims may include the right to put forward claims for damages or economic compensation against the accused as part of the criminal case.

## POLAND

In criminal proceedings the position of victims is fully and properly recognised and their rights are secured by the existing procedures and detailed regulations. This include *inter alia* the right to anonymity and being informed of the current status of the case.

Victims, including of terrorist acts, are a party to the pre-trial proceedings and may also be a party to judicial proceedings if they choose to act in the capacity of an auxiliary prosecutor.

In any case, at the request of the aggrieved party, who is notified about the possibility of submitting such a request, he or she must be informed about the dates and places of public hearings or court sessions (held with regard to the



discontinuation of proceedings, conditional discontinuation of proceedings or conviction of the accused without trial) and about charges of accusation and their legal qualification. See also above the rights enumerated in reply to question no. 3.



## PORTUGAL

YES. The victim can participate actively in the criminal proceedings. For that, he/she must request to be considered as «*assistente*» – Articles 68 and 69 of the CPP – or civil party. With the status of «*assistente*» the victim can collaborate with the Prosecution Service in the investigation and prosecution.



## SPAIN

Yes. Please refer to *Title Five - Protection of victims in judicial proceedings, of Spanish Act 29/2011 of 22 September*. For example:

Article 48. Right to free legal assistance

Article 49. Minimum harm in participating in the proceedings

Article 50. Specialised information

Article 51: there is a special Office of Information and Assistance to Victims of Terrorism in the National Audience Court (with competence on terrorist attacks) that includes, among its competences, giving advice to victims of terrorism regarding everything that relates to the criminal proceedings and the contentious-administrative proceedings that affect them.

In addition, and including other types of victims of criminal offences, Law 4/2015, of 27<sup>th</sup> April, on the Standing of Victims of Crime includes a broad catalogue of rights to avoid difficult situations for victims during criminal proceedings.



## SWEDEN

Victims of crime who are injured parties may be a party in legal proceedings, but do not have to be. 'Injured party' refers to the person against whom the crime was committed or who has been offended or suffered injury. The definition covers all-natural persons who have suffered physical, mental or emotional injury or economic loss as a direct result of a crime. If an injured party chooses to support the prosecution, he or she becomes a party in the case and has the same right as the prosecutor to present the investigation and cite evidence. Similarly, the injured party has formal status as a party in criminal proceedings if he or she institutes a private prosecution, takes over the prosecution or independently appeals the liability part of the verdict. The injured party is also a party in legal proceedings if he or she presents a private claim, a claim for damages, in the proceedings. He or she then takes formal status as a party in the part of the case concerning the private claim, but not in the liability part. There is no coercive measure to force an injured party to give testimony in Sweden.



## SWITZERLAND

Le CPP contient plusieurs règles relatives à la position des victimes dans la procédure pénale. En 2015, une évaluation de la LAVI a démontré que la position de victimes pouvait être encore améliorée. Le CPP est actuellement en révision, laquelle tiendra ainsi notamment compte des remarques formulées à l'occasion de cette évaluation.



## TURKEY

According to criminal law, a victim is described as “a person who, individually or collectively, has suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of his/her fundamental rights, through acts or omissions that are in violation of laws”. In terms of criminal law, “a person who has suffered harm due to a crime” is a person whose interests, which are protected by law, are directly or indirectly violated due to the commission of a crime”.

The rights of the victim within the criminal proceedings are listed in Article 234 of the Code of Criminal Procedure no. 5271. In addition; the victim, the natural and legal persons who have suffered harm due to a crime have the right to participate in criminal proceedings in every stage of the prosecution before the courts of first instance until the judgement is rendered (Article 237 of the Code of Criminal Procedure).

In our criminal legislation, although “victims of terrorist acts” do not have a specific and a different status other than the status of “victim”, there are special provisions regarding those who have suffered from terrorist acts, in the Law no. 5233 on “Compensation for Damages arising from Terrorism and from the Measures Taken against Terrorism” and in the relevant implementation Regulation, which provide the procedures and principles regarding the compensation of pecuniary damages.

Also, in the context of the Code of Criminal Procedure, relatives and dependents of those who have suffered bodily or physical damage due to a terrorist act can be assessed within the scope of “persons who have suffered harm due to a crime”.

## 8. Have victims of terrorist acts a right to a fair, easily accessible, and timely compensation, including for loss of earnings?

### AUSTRIA

Yes. Above all, such compensation (including loss of earnings) is offered by the **Victims of Crime Act**. This compensation is a subsidiary service and only granted if the offender has not compensated so far the damage suffered by the victim. The application for compensation may be filed informally, within two years of the criminal offence.

In criminal proceedings, according to § 67 para. 1 CCP victims have the right to seek restitution for any damages suffered by the criminal offence or compensation for infringements of their legal interests protected by criminal law. The extent of the damages or infringements has to be determined *ex officio* insofar as this is possible on the basis of the outcome of the criminal process or further simple inquiries.

In case of an acquittal the private party is referred to civil proceedings to claim his or her compensation. If the defendant is to be sentenced the court also has to decide on claims of the private party (§ 366 para. 2 CCP). In case the court is not in the position to decide on the full claim the private party may be referred to civil proceedings, unless evidence can be taken without significant delay. The private party has the right to appeal against the court decision if he or she is referred to civil proceedings (§ 366 para. 3 CCP). The courts decision on claims of private participant is enforceable under the rules of the Austrian Enforcement Act.

According to § 67 para. 7 CCP legal aid is provided for private parties as far as they are not already granted legal support for the proceedings (§ 66 para. 2 CCP), their representation by a lawyer is necessary in the interests of the administration of justice, in particular in the interest of a proper enforcement of their claims in order to avoid a subsequent civil procedure and they are unable to pay the costs of their legal representation without prejudice to the necessary maintenance (that is, the person is required to provide a simple lifestyle for themselves and their family, whom they must look after).

### BELGIUM

Les victimes de terrorisme peuvent obtenir une aide financière de l'Etat. Celle-ci reste subsidiaire et implique tout d'abord l'intervention des assurances pour les postes de dommage comme la perte de revenus.

Même si le nouveau dispositif législatif permettra à l'Etat d'agir plus vite que les assurances dans un premier temps (avec subrogation ensuite pour récupérer l'aide octroyée auprès des assurances), l'intervention de l'Etat Belge (via la

Commission d'aide aux victimes) est une aide financière octroyée en équité, il ne s'agit donc pas d'une indemnisation complète.

Le montant maximal de l'aide que la Commission peut octroyer est déterminé à 125.000 €.



## CROATIA

Responsibility for the damage caused by acts of terror and other acts of violence undertaken with the aim of seriously disturbing the public order by intimidating and provoking feelings of citizens' insecurity and by demonstration and other forms of mass expression in public places is regulated by the Law on Responsibility for Damage Caused by Terrorist Acts and Public Demonstration ("OG No. 117/03). For the purposes of this Act, the act of terrorism is considered to be an act of violence, as a rule, driven by political motivations to provoke fear, horror and feelings of personal insecurity of citizens. The Republic of Croatia is accountable for the above-mentioned damages on the principles of social solidarity, uniformity of bearing the public burden and fair and prompt compensation.

The injured party shall only be entitled to compensation for damages resulting from death, bodily injury or damage to health in 60% of the amount of damage determined, provided that the total damage cannot be paid in the amount of more than HRK 350,000.00.

Given that, if not contrary to the provisions and the aim of this Act, the general provisions of obligation law on liability for damages are applied, compensation for damages includes earnings lost due to inability to work.



## CYPRUS

According to article 15 of the above law, without prejudice to any other legal remedy or treatment provided under the provisions of any other law or regulation, victims within the meaning of law 51(I)/2016 have an actionable right (leading to compensation) against the offender for any offence committed against them (victims). The offender has a corresponding civil liability to compensate the victims by providing general and special damages.



## DENMARK

The Criminal Injuries Compensation Board can pay compensation if certain requirements are fulfilled, including the victim having suffered personal injury, the victim having suffered harm as a consequence of a violation of the Criminal Code in Danish territory, etc.

The compensation can cover lost earnings and compensation for the following things: Compensation for personal property, other losses (e.g. temporary and

permanent treatment expenses), pain and suffering (days of sickness), permanent injury, loss of earnings capacity, compensation for loss of earning capacity for children and young persons and persons without any personal income, fatal injuries (e.g. compensation to survivors in case of the victim's death, funeral expenses, transitional amount, loss of dependency), compensation for injury to feelings and reputation (non-pecuniary damage), compensation for gross violation and legal fees..

Furthermore, please, see the answer to question 1a.



## ESTONIA

Yes, a victim of terrorism can either file a separate civil claim in civil court or file a civil claim against the offender in the course of criminal proceedings. In such a claim, the victim can also seek compensation for loss of earnings.

Victims of crimes of violence are also entitled to compensation for the following:

- 1) damage arising from incapacity for work or work decrement;
- 2) expenses incurred due to damage caused to victim's 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.

Victims of crimes of violence are victims of an act committed against the life or health of a person which is punishable pursuant to criminal procedure and as a result of which the injured person:

- 1) dies;
- 2) sustains serious damage to his or her health;
- 3) sustains a health disorder lasting for at least four months



## FINLAND

Yes. Victims of terrorist acts are entitled to the same compensation for crime damage as other victims of crime. Thus, there is no separate compensation scheme for them. In Finland, the State Treasury is responsible for the compensation scheme, and is developing its services (including in cooperation with Victim Support Finland) to make them more victim oriented. This means clearer information to victims on how to apply for compensation (e.g. an instructive video is being prepared). The State Treasury also aims at accelerating the consideration of compensation (currently the expected processing time for compensation to crime victims is from 6 to 8 months).

For more information:

<https://www.valtiokonttori.fi/en/service/compensation-to-crime-victims/>

Les victimes d'acte de terrorisme bénéficient d'un régime juridique d'indemnisation dérogatoire au droit commun assuré par le **FGTI**. Créé par la loi n° 86-1020 du 9 septembre 1986 *relative à la lutte contre le terrorisme et aux atteintes à la sûreté de l'Etat*, le FGTI a pour objet d'assurer la réparation intégrale des dommages résultant d'une atteinte à la personne subis par les victimes d'actes de terrorisme. Le FGTI est alimenté principalement par un prélèvement sur les contrats d'assurance de biens, par les recours subrogatoires exercés contre les auteurs d'infraction et les produits de placements financiers.

Lorsque les actes de terrorisme sont commis sur le territoire français, toutes les victimes ainsi que leurs ayants droit, quelle que soit leur nationalité, peuvent être indemnisées. Pour les actes de terrorisme commis à l'étranger, seuls les ressortissants français peuvent demander une indemnisation.

Dès la phase de crise qui succède à l'attentat, le FGTI contacte directement les victimes. L'identité de ces dernières lui a été communiquée soit par le procureur de la République de Paris (à la suite de la réunion de la commission d'identification des victimes décédées ou inconscientes), soit par l'Agence régionale de santé concernée (pour les victimes qui ont été prises en charge par les établissements de santé<sup>52</sup>), soit par le ministère de la Justice.

En outre, toute personne qui s'estime victime d'un acte de terrorisme peut adresser directement au FGTI une demande d'indemnisation dans un délai de dix ans à compter de la date de consolidation du dommage ou de l'attentat.

Le Fonds accompagne les victimes pour la constitution du dossier initial de demande d'indemnisation. Dans le délai d'un mois à compter de la demande, le Fonds est tenu de procéder au versement d'une provision aux victimes ayant subi une atteinte à leur personne ou à leurs ayants droit en cas de décès.

Il assure la réparation intégrale des dommages résultant d'une atteinte à la personne. En application de l'article L. 422-2 du code des assurances, il doit présenter à toute victime une offre d'indemnisation dans un délai de trois mois à compter de la réception du dossier justifiant les préjudices. Les sommes doivent ensuite être versées dans le délai d'un mois à compter de l'acceptation de l'offre. Cette disposition est également applicable en cas d'aggravation du dommage. Pour déterminer le montant de l'indemnisation, les pertes de revenus, actuelles comme futures, sont prises en compte dans le poste de préjudice « pertes de gains professionnels » pour la victime directe. Un poste « incidence professionnelle » le complète en indemnisant les incidences du dommage sur la sphère professionnelle, comme le préjudice subi par la victime en raison de sa dévalorisation sur le marché du travail, de sa perte d'une chance professionnelle,

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<sup>52</sup> Ces personnes sont des blessés physiques et des blessés « psychologiques » recensés dans les systèmes d'information par les cellules d'urgence médico-psychologiques.

de ses frais de reclassement... La perte de revenus des proches est aussi prise en compte dans la réparation de leur propre préjudice patrimonial consécutif au décès ou au handicap de la victime directe.

En plus des postes de préjudices habituels, le conseil d'administration du FGTI a décidé d'indemniser un préjudice exceptionnel spécifique des victimes d'actes de terrorisme pour prendre en compte la spécificité de leur situation et notamment l'état de stress post-traumatique et/ou les troubles liés au caractère particulier de ces événements. Cette indemnisation est ainsi attribuée aux victimes ayant subi une atteinte physique et/ou psychique. Par ailleurs, depuis mars 2017, le FGTI reconnaît et indemnise également le préjudice d'angoisse des victimes directes et le préjudice d'attente et d'inquiétude des proches des victimes décédées.

Les victimes disposent du droit d'action en justice contre le FGTI dans le délai de dix ans à compter de la date de la consolidation du dommage initial ou aggravé (devant le tribunal de grande instance de Créteil (tribunal du ressort du siège du fonds) ou le tribunal de grande instance du domicile du demandeur). Elles peuvent également saisir le médiateur du FGTI pour formuler toute réclamation sur la procédure d'indemnisation ou les modalités d'accompagnement<sup>53</sup>.

Le FGTI prend l'attache des proches des défunts pour les informer de la prise en charge des frais d'obsèques. A cette fin, les structures de médecine légale dans lesquelles ont été réalisées les autopsies ou autres examens médico-légaux communiquent au FGTI les coordonnées des établissements de pompes funèbres choisis par les proches des défunts. Le FGTI contacte alors lesdits établissements pour transmission et prise en charge de la facture. Il informe en temps réel la CIAV des diligences accomplies en ce sens.

Enfin, les victimes bénéficient, au sein de leur régime d'assurance maladie, d'une prise en charge dérogatoire pour tous les frais de santé directement liés à l'acte de terrorisme.



## GERMANY

There are various sources which pay compensation. The federal budget provides for funds which can be paid out as hardship payments for victims and bereaved of terrorist violent crime and extremist attacks. Victims and bereaved individuals of terrorist attacks may receive such payments. These hardship payments are made by the Federal Office of Justice.

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<sup>53</sup> Le FGTI a publié en mai 2017 un guide pour l'indemnisation des victimes d'actes de terrorisme, disponible sur son site Internet : [https://www.fondsdegarantie.fr/wp-content/uploads/2017/12/Guide-pour-lindemnisation-des-victimes-dactes-de-terrorisme\\_impression\\_novembre-2017-derniere-version7.pdf](https://www.fondsdegarantie.fr/wp-content/uploads/2017/12/Guide-pour-lindemnisation-des-victimes-dactes-de-terrorisme_impression_novembre-2017-derniere-version7.pdf).

Furthermore, victims and bereaved individuals of violent acts might be eligible for extensive claims under social law pursuant to the Victims Compensation Act (*Opferentschädigungsgesetz – OEG*). In addition to rapid assistance, basic retirement payments may be considered in the case of permanent damage to health. These payments are available to all persons affected by violent acts in Germany, among other things if they are citizens of a Member State of the European Union.

Also, claims from the statutory accident insurance might be conceivable if the victims are first responders, pupils or students.

If violent acts are committed with a vehicle subject to mandatory automobile insurance, payments from the compensation fund for damage due to motor vehicle accidents can be considered as well. This possibility for compensation does not affect the classification of an attack as a terrorist act of violence.



## MONACO

L'article 3 de la loi n° 1.318 du 29 juin 2006 susvisée, permet la réparation du préjudice des victimes d'actes de terrorisme directement par l'Etat, ce qui pourrait couvrir les pertes de revenus.



## MONTENEGRO

According to the Law on Obligations, special cases of liability are prescribed regarding the liability because of terrorist acts, street demonstrations or public events.

Article 187 of the Law on Obligations prescribes that “a State whose agencies, in conformity to existing regulations, were bound to prevent injury or loss, shall be liable for loss due to death, bodily injury or damaging or destroying property of an individual due to terrorist acts, as well as in the course of public demonstrations and public events.”

Article 187 para. 2 of the Law on Obligations prescribes that “organizers, participants, instigators and aides in terrorist acts, public demonstrations and public events which are aimed at subverting constitutional order shall not be entitled to damages on this ground.”

Article 187 para. 3 of the Law on Obligations prescribes that “the State shall be entitled and shall have a duty to claim recovery of the amounts paid, against a person who caused the damage. That right shall expire due to statute of limitations within the time limits specified by law for the expiration of claims for damages.”





## NETHERLANDS

In the Netherlands, victims have the right to join as a civil party in the criminal proceedings against the suspect of the crime that caused harm to the victim. In principle, the criminal court will decide on the compensation claim together with the judgement in the criminal case. The criminal court can impose a measure obliging the convict to pay a certain sum as compensation. The actual collection of the sum will be done by the National Agency for Judicial Collection (*Central Justitieel Incassobureau*), that also deals with the collection of financial sanctions (fines). This procedure has the advantage of the victim not having to deal with the collection procedure themselves. In case the compensation will not be paid by the convict within eight months, the state will provide a cash advance to the victim.

Furthermore, the Compensation Fund on Violent Crimes (*Schadefonds Geweldsmisdrijven*) provides a financial contribution to victims of violent crimes that caused them serious physical or psychological harm; to surviving relatives of victims of a violent crime or “culpable death” (committed without intent); and to close relatives or loved ones of victims that suffer from serious and permanent physical or psychological harm. The financial contribution from this fund is provided on the condition that the harm has not been compensated through other channels. This contribution is meant as a recognition of the suffering and aims at restoring trust in society.



## NORTH MACEDONIA

The basis for victim's compensation (general) is provided for in Article 53 of the Law on Criminal Procedure. This shall be further regulated with the adoption of a special law, which is one of the priorities of the Ministry of Justice.

Namely, this law will regulate the conditions for exercising the right to compensation of victims of crime, the rights of the victims, the types of compensation, the establishment, status, composition, and competencies of the body that will decide on the compensation of victims of criminal acts of violence, as well as the election, mandate, and termination of the mandate of the president and members of the body, the sources for financing the funds for payment of compensation to victims, informing and teaching the victims, the procedure for exercising the right to compensation, the right to recourse proceedings in cross-border cases, as well as record keeping and data storage.

The said law will be based on the following principles:

- legality,
- fairness,
- social solidarity,
- prohibition of discrimination,
- prevention of secondary victimization,
- publicity,
- acting within a reasonable time and
- economy.

Also, the law whose adoption is planned for 2019 besides the immediate one, will include the indirect victim. Its goal, to a great extent, is to prevent secondary victimization of the victim. Apart from the types of compensation for victims, the procedure and the amount of the compensation that will be paid to the victims of criminal acts shall be prescribed in the law.



## NORWAY

Yes. Victims of crime, including terrorism, are granted rights to compensation from the state under the Compensation for Victims of Violent Crimes Act.

A person who has suffered bodily injury or impairment of health injury as the result of a violent crime, for example terrorism, may be entitled to criminal injuries compensation. Furthermore, the dependants of persons who have died as a result of a violent crime, and children who have witnessed violence towards close relatives, may be entitled to criminal injuries compensation.

A precondition for awarding compensation, is that there is a clear weight of probability that the claimant has been the victim of a wilful act of violence against the person or other punishable offence that infringes upon life, health or freedom, and that has resulted in personal injury. It is also, as a main rule, a precondition that the punishable offence has been reported to the police.

Compensation under the Compensation for Victims of Violent Crimes Act is in the first place given to victims of crimes, including terrorism, committed within the territory of Norway. The scheme may, however, under certain circumstances also compensate victims of violent crimes committed outside the territory of Norway.

If the state where the crime was committed has a scheme for criminal injuries compensation, the victim is obliged to apply for compensation in this state before applying in Norway. The victim must at the point of time of the crime be residing in Norway.

The compensation scheme for victims of violent crimes encompasses compensation for expenses, loss of income, loss of future income, damages for pain and suffering for permanent medical invalidity, reparation for non-pecuniary damage and compensation for surviving relatives.

As a main rule, the perpetrator is financially responsible for his or her actions against a victim. Compensation from the state under the Compensation for Victims of Violent Crimes Act is a subsidiary arrangement. This also means that when the appropriate level of compensation is determined, deduction is made by insurance payment and other compensation received from other parties in connection with the incident.

The maximum amount of compensation is at the time being NOK 5 812 980 (approximately € 633 000). In addition, the authorities have an opportunity to give a higher compensation in certain serious cases.

In the first instance, The Norwegian Criminal Injuries Compensation Authority (Kontoret for voldsoffererstatning) rules on applications. The rulings can be appealed to the Compensation Board for Victims of Violent Crime (Erstatningsnemnda for voldsofre). The Norwegian Civil Affairs Authority (Statens sivilrettsforvaltning) serves as the Board's secretariat and has also been delegated competence to rule in certain cases.

A government-appointed committee published a report on the criminal injuries compensation scheme in 2016. The committee undertook a broad review of the scheme and proposed several changes. The Ministry of Justice and Public Security is currently assessing how to follow up the report.

## POLAND

Victims of terrorist acts are entitled to apply for compensation under general rules applicable to all victims. According to Article 46(1) of the Criminal Code, in the event of the conviction, the court, at the request of the aggrieved party or another entitled person, and applying the provisions of civil law, shall rule on the obligation to repair, in whole or in part, the damage caused by the crime and/or just satisfaction for the harm suffered. The obligation to repair the damage also includes any lost profits, e.g. lost earnings. If the adoption of the decision on the obligation to repair the damage is significantly hindered, the court may award instead discretionary damages (*nawiązka*) of up to PLN 200,000 to the victim, or – in case of his/her death as a result of the offence committed by the convicted offender – discretionary damages for the benefit of the next of kin whose life situation has significantly deteriorated as a result of the victim's death.

In the event that more than one such person has been identified, the payments are awarded for the benefit of each of them. A decision on compensation or just satisfaction based on Article 46(1) of the Criminal Code, or a decision on granting discretionary damages, does not preclude seeking the remaining part of the claim through civil proceedings.

Moreover, victims of terrorist acts may obtain certain benefits on the basis of the Act of 7 July 2005 on State Compensation for Victims of Certain Offences. Such State compensation is vested in victims who have sustained serious damage to health or injuries causing impairment of the functioning of the body or health disorder for more than 7 days or to persons being next of kin of victims have lost their life as a result of criminal acts (for example, terrorist acts).

Such compensation may be granted in the amount covering only lost earnings or other means of subsistence, costs related to treatment and rehabilitation and funeral costs. It is granted only if (and to the amount of) lost salaries, other means of subsistence or incurred costs which are not covered by the perpetrator or perpetrators of an offence or insurance or social assistance, and regardless of whether the perpetrators of the offence have been identified.

Compensation is granted if an offence was committed on the territory of the Republic of Poland to the detriment of a person with a permanent stay in Poland or other European Union Member States.

 **PORTUGAL**

YES. For victims of violent crimes, that is, those identified in Article 1, (j) and (l) of the Code of Criminal procedure, there may be an advance of compensation by the State or a payment when it cannot be borne by the perpetrator of the crime and provided that the damage 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 September.

 **SPAIN**

In order to be considered beneficiary of the assistance and benefits provided for by Act 29/2011, individuals must meet at least one of the following conditions:

- a) Having been entitled on the basis of a final judgement to compensation as civil liability derived from crimes and damages provided for by the law.
- b) Or, in the absence of a final decision, the corresponding judicial formalities have been carried out, or criminal proceedings to prosecute the crimes have been initiated.

In addition, if the compensation decision has been challenged in Court, the Administration will enforce the judgement in its strict terms.

For amount of economic compensations, there are scales in ANNEX I of Spanish Act 29/2011 of 22 September:

**Table I. Compensation for death and permanent disabilities**

Concept	Euros
Death	250,000.00
Severe disability	500,000.00
Absolute permanent disability	180,000.00
Total permanent disability	100,000.00
Partial permanent disability	75,000.00

**Table III. Compensation for temporary disability and for kidnapping**

<b>Concept</b>	<b>Compensation</b>
Temporary disability	IPREM/day x 2, to the limit of 18 monthly allowances
Kidnapping	IPREM/day x 3, to the limit of that established in this Annex for partial permanent disability

Subsidies and compensation regulated in this Act shall be the revised periodically pursuant to the provisions established in the annual General State Budget Acts.

Regarding the loss of income, days spent on sick leave will be compensated up to a maximum of 18 months.

Likewise, the victims and persons threatened and their relatives or persons, with whom they live, suffering psychological aftereffects resulting from terrorist acts, shall be entitled to the funding of the cost of their psychological treatment up to a limit of 3.600 euros per treatment.

Victims of terrorism may receive specific subsidies in order to finance medical treatment, prostheses and surgery, provided that they are not covered by either their public or private insurance system. To that end, the victim needs to provide a certification from his/her health insurer stating that the assistance or treatment requested does not fall within its coverage.

According to article 53 of the Regulation of 29/2011 Act, the deadline for solving a compensation procedure is 12 months. Article 52 regulates the cases where the procedure may be suspended. Such procedures are carried out by the Directorate General to support victims of terrorism.



## **SWEDEN**

Under the Criminal Injuries Compensation Act (2014:322), victims of terrorism are entitled to criminal injuries compensation, such as for personal injury and violation they have suffered as a result of an offence committed in Sweden. 'Personal injury' refers to medical costs and loss of income, among other things. The same applies to victims of terrorism who are residents in Sweden even if the offence was committed in another Member State. This applies on the condition that the injured party has not received full compensation from the person who caused the injury, compensation from insurance or other compensation for the injury.



## SWITZERLAND

Les prestations financières prévues par la LAVI consistent en une indemnité et une réparation morale (art. 19 et 22 LAVI). Le montant de l'indemnité est plafonné à 120'000 francs (art. 20 al. 3 LAVI) et celui de la réparation morale à 70'000 francs (victimes), respectivement à 35'000 francs (proches). En outre, la Suisse a ratifié la Convention sur le dédommagement des victimes d'infractions violentes le 7 septembre 1992 et en rempli les conditions.



## TURKEY

Article 21 of Anti-Terror Law No. 3713 regulates the procedures and principles regarding payments as well as the amounts to be paid for public officials who are injured, become disabled, passed away or are killed as a result of being exposed to terrorist acts while discharging their duties at home or abroad, or by virtue of such duties, even after leaving the office.

Article 22 of Anti-Terror Law No. 3713 stipulates aid for persons who do not fall within the scope of Article 21. Accordingly, persons who are injured due to terrorist acts are provided medical treatment by the State. Citizens who have suffered or have been harmed by loss of life or loss of property shall receive prioritized aid from the Social Welfare and Solidarity Fund. Also, educational expenses of the children of martyrs who are primary or elementary school students shall be reimbursed from this Fund.

On the other hand, pecuniary damages that real and legal persons have suffered as a result of terrorist acts or activities conducted within the scope of the fighting against terrorism are aimed to be compensated under Law No. 5233.

The principles and procedures regarding the establishment, working methods and duties of Damage Assessment Commissions and the determination of procedures to be followed in the applications lodged before the Commissions, the establishment of losses regarding life, physical integrity and property, and the determination of net amounts to compensate the damages amicably, the form and amount of payment in cash, the detection of the rates of injury and incapacity to work, the way of payment in kind etc. are provided in "Regulation on Compensation for Damages arising from Terrorism and from the Measures Taken against Terrorism".

Pursuant to Law No. 5233, it is envisaged that pecuniary damages incurred due to injuries caused by terrorist acts, pecuniary damages of inheritors of the persons who passed away as a result of terrorist acts, expenses of medical treatment or funeral expenses, pecuniary damages of legal persons shall be compensated.

The compensation of non-pecuniary damages is not included in Law No. 5233. However, Law No. 5233 does not prevent persons from claiming compensation for their non-pecuniary damages by means of administrative proceedings. Thus,

the last paragraph of Article 12 of Law No. 5233 stipulates that the applicants' right to resort to judicial remedies is reserved regarding the disputes that could not be resolved amicably.

Regarding whether pecuniary damages can be claimed by judicial proceedings or not; the Constitutional Court held that the relation of causality and negligence of the administration are not needed to be proved for the occurrence of terrorist activities, and the administration is liable, within the framework of "social risk" principle for the compensation of pecuniary and non-pecuniary damages incurred as a result of terrorist acts.

In its judgment dated 25/6/2009 (file no. 2006/79, judgment no.2009/97), the Constitutional Court decided as follows:

*"Law No. 5233 is drafted so that the administration could compensate, within the shortest time and amicably, the pecuniary damages of persons who have incurred losses due to terrorist acts and activities conducted within the fight against terrorism without any necessity for these persons to seek judicial remedies. In this respect, the Law has brought an alternative resolution method to the dispute between the citizen and the State without the need to seek any judicial remedies. In conformity with this purpose, the legislator has laid down the relevant principles broadly in the Law by envisaging provisions different from the rules of jurisdiction.*

*The administration shall be liable for compensating damages that are the direct results of the service it has conducted and with which a relation of causality could be established pursuant to the principle of defect liability. However, sometimes the administration could be held responsible for some damages without the requirement of defect liability and relation of causality. These are the damages which the administration could not prevent, although it is liable for preventing regarding its own activity field. The ground of this liability set forth in Law No. 5233 is 'the principle of social risk', which is a version of strict liability and which is improved by jurisprudence.*

*The regulations in Law No. 5233 regarding the compensation of pecuniary damages resulting from terrorism and the fight against terrorism, however, not having a relation of causality with an administrative act or action, are exceptions brought by the legislator to the general provisions of liability law as a requirement of social state. It is within the legislator's discretion to determine the losses to be compensated amicably as a requirement of the "social risk" principle in which the administration has no defect. The existence of provisions regarding the compensation of pecuniary damages specified in the rules which are subjected to objection should be considered within this scope.*

*Law No. 5233 is a law paving the way for the remedy of compensation of damages not resulting from the act and action of the administration, or not having a relation of causality directly with any acts or actions of the administration; however, occurring during terrorism and the fight against*

*terrorism; and extending the administration's strict liability field. This law extends the administration's strict liability field; moreover, it determines the rules and procedures regarding the compensation of only 'pecuniary' damages incurred during terrorism and fight against terrorism. The law does not include a provision that the 'non-pecuniary' damages could not be requested from the administration; furthermore, a regulation parallel to Article 125 of the Constitution is included in Article 12 in which it is stated that 'the concerned reserves the right to apply to judicial remedies for the disputes that could not be resolved amicably'. Therefore, the expression, being the subject of objection, does not include a provision restricting the liability field of the administration or invalidating the judicial remedies against the administrative acts or actions."*

Similarly, in its judgment dated 18/02/2016 (file no. 2015/2933, decision no. 2016/326), the Plenary Session of Administrative Law Chambers of the Council of State has decided as follows:

*"In terms of the acceptance of the claim of pecuniary compensation;*

*(...)*

*The aim of social risk principle is to recover the special and extraordinary damages arising from the social conditions, not being the direct result of public services conducted, occurring as a result of the realization of the social risk and being incurred due to merely being a member of the society, by distributing it among members of the society. It is known and observed that the actions characterized as 'terrorist incidents' in general words are against the State, they are aimed at destroying the Constitutional order, they do not result from personal hostility against persons and institutions that have been harmed during these incidents. Persons who have sustained damages due to the said incidents, suffer, not due to their personal defects and actions, but due to being a member of the society. The special and extraordinary qualifications of damages incurred in the said way should be taken into consideration, and it would be fair that the administration which could not prevent the terrorist incidents, although it is liable for preventing, shall compensate the damage by means of distributing it among the members of the society and this is also in conformity with the principle of social state.*

*(...)*

*According to Article 12 of Law No. 5233, it has been provided that 'the right to an effective remedy of the concerned person is reserved in the case of the disputes that cannot be settled amicably' which is in line with Paragraph 1 of Article 125 of the Constitution and in case that calculations with regards to the pecuniary damages provided by the abovementioned Law are settled amicably, there is no doubt that it binds the concerned persons. In case that a settlement agreement is not signed, there does not exist a provision to prevent the concerned from resorting to legal remedies for the compensation of his/her damages, therefore it is concluded that the complainant can request the compensation of the damages arising from the terrorist acts according to the general principles of the compensation law.*



*As to the request for the non-pecuniary damages;*

*(...)*

*In 81st paragraph of Aydın İçyer - Turkey judgment of the European Court of Human Rights dated 12 January 2006 (application no. 18888/02), it has been stated as a reference to Law No. 5233 on Compensation for Damages arising from Terrorism and from the Measures Taken against Terrorism that 'while it is true that the Compensation Law refers only to the possibility of claiming compensation for material damage, it appears that section 12 of the Compensation Law opens an avenue to the possibility of seeking non-pecuniary damages in the administrative courts.'*

*In this case, (...) it is concluded that judicial review is needed to decide on whether non-pecuniary damages shall be compensated or not, subject to the procedures provided by Law No. 2577<sup>54</sup> with regards to the disputes on the claims for compensation asserted by the concerned, related to the non-pecuniary damages that are not covered under Law No. 5233 but arising from terrorist acts and falling under the social risk principle."*

Moreover, with regard to Additional Article 1 and Provisional Article 5 of the Law No. 5233, those who became disabled as a result of terrorist acts as well as the dependants of those who lost their lives as a result of terrorist acts are paid monthly salaries by the Social Security Institution.

Furthermore, under Article 2 of the "Regulation on Employment in the Public Institutions within the scope of Anti-Terror Law", if the victim is disabled due to the terrorist act, the disabled person or his/her spouse or one of his/her children or in the case the victim has no spouse or children, the victim or one of the siblings is employed in public institutions. In the case victim has deceased, his/her spouse or one of his/her children, in the case the victim has no spouse or children then his/her mother or father or one of the siblings is employed in the public institutions.

Regarding foreign and non-resident victims of terrorist acts, existence of a bilateral agreement based on the principle of reciprocity between Turkey and the country of the victim's nationality is taken into consideration.

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<sup>54</sup> Code of Administrative Procedure.

## 9. Has a specific fund to this end been created in your country?



### AUSTRIA

Yes: The support according to the Victims of Crime Act is financed by the budget of the Republic of Austria.



### BELGIUM

La Commission d'aide financière aux victimes d'actes intentionnels de violence est un tribunal administratif qui peut octroyer une aide financière en équité (pour un certain nombre de postes de dommages – liste limitative - incluant la perte de revenus). Le budget de la Commission provient du 'Fonds d'indemnisation des victimes', qui est un fonds organique sur le budget du SPF Justice non géré par la Commission.



### CROATIA

There is no special compensation fund in Croatia. Compensations are funded through the general State Budget.



### DENMARK

As stated above, The Criminal Injuries Compensation Board handles cases of victims' compensation. The Board deals with applications for compensation under pursuance of the State Compensation to Victims of Crime Act and undertake administrative tasks connected to the consideration of applications. If the perpetrator is not found, or otherwise unable to pay, the state will pay the compensation to the victim of the crime.



### ESTONIA

No.



### FINLAND

No. The funds for compensation are subsumed in the state budget. In 2019 the budget for compensation for victims of criminal damage is 16 M€.



## FRANCE

Voir la réponse apportée à la question 8.



## GERMANY

The German federal budget includes funds to compensate victims and bereaved of terrorist violent crimes (hardship payments).

Hardship payments are financial assistance which can be paid out within a short time to victims of terrorist and extremist offences. They are designed to provide quick and non-bureaucratic help to affected individuals.

Hardship payments are issued as voluntary, special solidarity payments by the State for victims of terrorist and extremist crimes. Pursuant to the “guideline for hardship payments for victims of terrorist attacks” and the “guideline for the payment of hardship payments for the victims of extreme right-wing criminal offences” issued by the Federal Ministry of Justice and Consumer Protection, the Federal Office of Justice is responsible for approving such hardship payments.

In order to provide quick and uncomplicated help, the measure of “fixed-sum immediate assistance” was developed for terrorist cases and comparable cases of extremist violent offences.

In cases where the victim dies, close relatives receive a fixed sum for immediate assistance for the loss of the loved one. Furthermore, bereaved relatives receive hardship payments to mitigate loss of future support.

For injured persons, fixed-sum immediate assistance is an option both in terms of the specific own injury, as well as in terms of mitigating professional disadvantages in the case of inability to work.

Fixed-sum immediate assistance due to one’s own injury totals 5,000 euros or 3,000 euros, depending upon the recognisable degree of injury. Depending upon the degree of injury, this sum is merely an initial instalment payment. Thereafter, based on the specific injuries and their consequences, the appropriate hardship payment is calculated and approved.

The Federal Government has retroactively raised the fixed-sum payments for hardship payments in the case of the death of a close relative as follows:

- 30,000 euros for surviving closest relatives (instead of previously 10,000 euros)
- 15,000 euros for surviving siblings (instead of previously 5,000 euros)

In the future, the fixed-sum payment to mitigate loss of future support of relatives in case of death:

- 25,000 euros for surviving spouses/life partners (instead of previously 10,000 euros);
- 45,000 euros for surviving children from 0 to 6 years of age (instead of previously 16,000 euros);
- 35,000 euros for surviving children from 7 to 12 years of age (instead of previously 13,000 euros);
- 25,000 euros for surviving children from 13 to 18 years of age (instead of previously 10,000 euros).

In the case of injury, the fixed-sum payment to mitigate professional disadvantages in the case of proven permanent inability to work will be 20,000 euros in the future (instead of previously 7,500 euros). The fixed sum is adjusted proportionally in the case of medium-term or longer-term inability to work. Furthermore, a fixed sum of 1,000 euros for assistance with travel costs may be paid out to the close relatives of injured or killed victims; this need not be repaid.

 **MONACO**

L'indemnisation prévue par l'article 3 de la loi n° 1.318 du 29 juin 2006, susvisée, est assurée directement par l'Etat.

 **MONTENEGRO**

No.

 **NETHERLANDS**

Yes. See above answer to question nr 8.

 **NORTH MACEDONIA**

Not specifically for victims of terrorist acts.

 **NORWAY**

No. Compensation under the Compensation for Victims of Violent Crimes Act is covered by appropriations in the National Budget.

 **POLAND**

In Poland, the Assistance Fund for Victims and Post-penitentiary Assistance (also referred to as the Justice Fund), was established pursuant to Article 43 of the Code of Execution of Criminal Sentences by the Ordinance of the Minister of

Justice of 13 September 2017 on the Assistance Fund for Victims and Post-penitentiary Assistance - the Justice Fund.

The Fund is a targeted fund tasked with helping victims and witnesses, counteracting crime and providing post-penitentiary assistance.

Fund resources are allocated for:

- assistance to victims of crime and their next of kin, especially medical, psychological, rehabilitation, legal and material assistance,
- post-penitentiary assistance to persons deprived of their liberty, released from prisons and detention centers and their next of kin, provided by professional court officers and the Prison Service,
- activities undertaken or entrusted by the Fund's administrator (the Minister of Justice), aimed at supporting and developing the system of assistance for victims of crime and witnesses as well as post-penitentiary assistance, and also at counteracting the causes of crime, in particular activities consisting of:
  - promoting and supporting initiatives and projects aimed at improving the situation of crime victims and effective re-adaptation of convicts,
  - educational and information projects, including those related to causes and determinants of crime and its prevention,
  - covering costs related to the organisation and conduct of teaching, post-graduate studies, additional training courses,
  - undertaking, organising and commissioning scientific research, development works, cooperation with other units in this field, regarding the situation and the needs of victims of crime, witnesses, convicted persons, as well as causes and determinants of crime and ways to prevent it,
  - promoting the system of assistance to victims of crime and witnesses as well as post-penitentiary assistance,
  - dissemination of knowledge on the rights of victims of crime and about alternative methods of conflict-resolution, in particular mediation in family, juvenile and criminal matters,
  - acting in support of families at risk of dysfunctionality, in particular in the field of addiction and co-addiction prevention and therapy and conflict-resolution in the family.



## PORTUGAL

NO specific fund exists. However, there is a specific budget for the compensation of victims by the State.



## SPAIN

NO. The State's system is funded through the Annual General Budget. Likewise, for those regions awarding complementary compensation (for example, in the Madrid Region Law passed in October 2018, there is an increase of 30% on top of the amounts paid by the State), their regional budgets provide for their systems.



## SWEDEN

See answer to question 8. Compensation in line with question 8 is paid from central government funds.



## SWITZERLAND

Non.



## TURKEY

(See reply under question 8 / voir réponse sous question 8).

**10. Irrespective of their nationality, have victims of terrorist acts a right to alternative measures to mitigate, once they have come back to their country of residence, the harmful consequences of a terrorist act occurred in your country?**



## BELGIUM

Oui, via l'octroi du statut de solidarité nationale, dans le cadre duquel une pension de dédommagement et un remboursement des soins sont prévues, également pour les victimes 'non résident', voir l'article 3, alinéa 1<sup>er</sup>, de la loi du 18 juillet 2017 relative à la création du statut de solidarité nationale, à l'octroi d'une pension de dédommagement et au remboursement des soins médicaux à la suite d'actes de terrorisme, comme modifié par la loi du 15 janvier 2019 modifiant la loi du 1<sup>er</sup> août 1985 portant des mesures fiscales et autres en ce qui concerne l'aide aux victimes du terrorisme :

"La présente loi est d'application aux victimes et aux ayants droit qui n'ont pas la nationalité belge et qui ne résidaient pas de façon habituelle en Belgique comme visé à l'alinéa 2. Le Roi détermine les modalités pratiques selon lesquelles les dispositions de la présente loi s'appliquent. Les frais générés par l'octroi des avantages financiers qui découlent de l'octroi du statut de solidarité nationale aux victimes visées par le présent alinéa sont imputés au Fonds visé aux articles 28 et 42bis, alinéa 5, de la loi du 1<sup>er</sup> août 1985 portant des mesures fiscales et autres. »



## DENMARK

Foreigners can be assigned a legal advocate if they fulfill the same requirements as Danish nationals just as they can get compensation from the Criminal Injuries Compensation Board if they fulfill the requirements.



## ESTONIA

All residents of Estonia have a right to the measures named in answer 4 regardless of where the terrorist attack took place.



## FINLAND

No.



## FRANCE

Les mesures d'identification, d'indemnisation et de soutien adressées aux victimes telles que précédemment décrites (voir la réponse apportée à la question 8) sont applicables de la même manière aux victimes qui sont déjà retournées dans leur pays de résidence. Hormis ces mesures, les victimes ont le droit de participer à la procédure pénale, notamment de se constituer partie civile.



## GERMANY

The Federal Government Commissioner for the Victims and Bereaved of Terrorist Offices Committed on National Territory is also available for affected individuals who have neither German nationality nor their permanent place of residency on German territory. The Commissioner provides support to them as well and also attempts to maintain support following return to their home country (e.g., via contact to embassies and interpreters/translators).



## MONACO

Les victimes étrangères ou non résidentes, ont droit à être indemnisées par l'Etat monégasque même une fois revenues dans leur pays d'origine (Article 3 de la loi n° 1. 318 du 29 juin 2006 sur le terrorisme).



## **MONTENEGRO**

No.



## **NETHERLANDS**

All rights provided to victims in the Netherlands, in principle apply irrespective of the victim's nationality. For practical reasons some types of support should be provided in the country where the victim lives, such as mental therapy.



## **NORTH MACEDONIA**

No.



## **NORWAY**

The Compensation for Victims of Violent Crimes Act covers all victims of violent crimes, which falls under the scope of the scheme, committed within the territory of Norway. This applies irrespective of the victim's nationality, and the victims may make a claim for compensation after they have gone back to their country of residence.



## **POLAND**

The application of the Act of 28 November 2014 on Protection and Assistance for the Victim and Witness, the Code of Criminal Procedure, the Code of Execution of Criminal Sentences, and the Act of 5 August 2015 on Free Legal Assistance and Legal Education is not limited to Polish citizens and thus the rights envisaged there apply also to citizens of other States.

Moreover, the State compensation envisaged by Act of 7 July 2005 on State Compensation for Victims of Certain Offences, may be granted if an offence was committed on the territory of the Republic of Poland to the detriment of a person with a permanent stay also in other European Union Member States.



## **PORTUGAL**

If the victim is a resident of a Member State of the European Union and is a victim of a crime in a country other than that in which he/she resides, he/she may submit a claim for compensation to the authority which has jurisdiction to hear and decide on such an application in his/her State of residence, and shall transmit it to the competent authority in the country where the crime occurred.





## SPAIN

Yes. Spanish legislation provides equal rights to victims of terrorism attacks that take place in Spain, irrespectively of their nationality and according to article 3 of the Act:

Article 3. Beneficiaries:

This Act shall apply to those who have suffered from terrorist acts, understood as those acts carried out by members of organizations or criminal groups whose aim is to subvert the constitutional order or seriously disturb the public peace.

It shall also apply to victims of the acts carried out to achieve the objectives described in the above paragraph, even if the perpetrators are not members of such organizations or criminal groups.



## SWEDEN

Regarding information, victims of terrorism who are resident in another Member State must, under the Terrorism Directive, have access to information about their rights, available support services and available compensation schemes in the Member State where the terrorist offence was committed. In Sweden there are a number of actors providing information to victims of terrorism, regardless of whether they are resident in Sweden or not. The actors providing information include social services, and the health and medical care sector. Information for victims of crime is also available in different languages on the websites of various government agencies, including the Swedish Police Authority website ([www.polisen.se](http://www.polisen.se)). The Swedish Crime Victim Compensation and Support Authority has also produced information material in a number of different languages and also offers a service helpline which provides information and advice on issues such as crime victim compensation.



## SWITZERLAND

En outre, indépendamment des prestations déjà soulevées plus haut, la LAVI prévoit qu'en plus des autres prestations prévues par la loi, la victime d'une infraction commise en Suisse a droit, sur son lieu de domicile, à des contributions aux frais nécessaires à sa guérison (art. 14 al. 2 LAVI).



## TURKEY

(See reply under question 8 / voir réponse sous question 8).

**11. Have victims of terrorist acts a right to specific protection measures in case they participate as witnesses in criminal proceedings concerning the terrorist act which caused their condition of victims?**

 **AUSTRIA**

Please, refer to the answer to question 7 (§ 66 CCP).

In addition, according to § 66a CCP particularly vulnerable victims such as minors have the right e.g. to be interviewed by a person of the same sex.

Several provisions of the CCP protect the identity of the witness. § 10 para. 3 CCP obliges all authorities or other entities or persons acting in the criminal proceeding to respect the victim's highly private matters:

- According to § 161 para. 1 CCP a witness has to be asked about personal data in a very discreet way if any other person is present.
- According to § 162 CCP a witness may be granted anonymously providing deposition if it is to be feared that the witness or a third person would be exposed to a danger for life, health, physical integrity or freedom by the disclosure of the identity.
- According to § 229 para. 1 subpara. 3 CCP the public may be excluded from the trial in order to protect a witness giving an anonymous deposition in respect of § 162 CCP.
- § 54 CCP obliges the defence lawyer and the defendant not to publish to general public information concerning personal data of other parties or third persons insofar as that information was not part of public proceedings or was not yet published.
- § 228 para. 4 (TV and radio recording as well as taking pictures or film of the trial are inadmissible) and § 7a para. 1 subpara. 1 of the Law on the Media protect the victims privacy and photographic images as well as from persons in a similar position.

In order to avoid secondary victimisation as well as the direct contact of the witness and the defendant § 165 CCP and § 250 CCP provide for the possibility of an adversarial questioning of a witness. With regard to particularly vulnerable victims (§ 66a CCP) or other witnesses to whom the criteria mentioned in § 66a apply (i.e. also minor witnesses), the participation at the interrogation of other participants in the proceeding may be limited either on request by the public prosecutor or *ex officio* by the use of technical means of audio and visual transmission for following the interrogation and the right to ask questions being exercised without being present at the interrogation. Especially if a witness is particularly vulnerable, it is possible to appoint an expert to conduct the interrogation. In any case, care shall be taken to avoid a possible encounter of the witness with the accused person and other participants in the proceedings.

If an adversary questioning has taken place in accordance with the above-mentioned provisions, the witness is released from the obligation to further testify and the protocol of the adversary questioning can be read in the main trial phase (§ 252 para. 1 subpara. 2a CCP). § 160 para. 1 CCP and § 247a CCP provide for the possibility for a witness to be interrogated at home or at another place if in respect of his or her ill health or frailty or due to other reasonable circumstances he or she can not follow the summons and may be under the conditions of § 247a CCP conducted by technical means of audio- or visual transmission.



## **BELGIUM**

Les dispositions des témoins protégés et témoins anonymes peuvent s'appliquer également aux les victimes de terrorisme.



## **CROATIA**

By the CPC in Article 43 and the Ordinance on the Method of Implementing Individual Assessment of the Victim (OG 106/17, hereinafter: the Ordinance) an individual victim assessment procedure is prescribed. The individual assessment shall include establishing whether there is a need to take special protection measures in respect of the victim and if yes, which ones.

The individual assessment of a victim shall take into account the personal characteristics of the victim, the type or nature of the criminal offences and the circumstances of the criminal offence. In this context particular attention shall be paid to victims who have suffered considerable harm due to the severity of the criminal offence, victims of a criminal offence committed with a bias related to their personal characteristics and victims whose relationship to the perpetrator makes them particularly vulnerable. Having in mind the above-mentioned circumstances which are to be taken into account, victims of terrorism are to be particularly included in an individual assessment.

Article 7 of the Ordinance stipulates that when assessing whether there are risks or fear of causing damage (which includes: the gravity or nature of the criminal offense and the circumstances in which criminal offense was committed), it is to be taken into account that serious offenses include but are not limited to, violence in close relationships, gender-based violence, sexual violence and sexual exploitation, trafficking in human beings, hate crime, terrorism, organized crime and other criminal offenses with elements of violence.

If, on the basis of the assessment results, the body that carries out an individual assessment of the victim's needs for protection concludes that there is a risk of harm and / or additional trauma for the victim, it will propose and / or implement appropriate special measures for the victim's protection.

Specific measures for the protection of victims, according to Article 9, paragraph 2 of the Ordinance, include beside procedural protection measures (for example, a special way of testing, use of communication technologies to avoid visual contact with the perpetrator, exclusion of the public from the hearing, possibility of being questioned by a person of the same sex and that in case of any further questioning he/she be questioned, where possible, by that same person, the escort of a person of trust, the protection of the confidentiality of personal information), counselling services at government expense, as well as other measures provided for by law.



## CYPRUS

According to article 17 of the above law, victims wishing to cooperate with prosecuting authorities within the compounds of criminal proceedings against the offender, are considered as a witnesses that needs assistance within the meaning of the *Protection of Witnesses' Law*, and, it is necessary, victims join the Witnesses Protection Scheme. Subject to the provisions of the Protection of Witnesses' Law (and without prejudice to the rights of the defense), the court evaluates the personal circumstances of victims and safeguards that they receive special treatment for the purposes of preventing subsequent victimization. Law enforcement authorities ensure, where necessary, that effective and appropriate protection from possible revenge and/or intimidation is provided to victims, in particular during and after the investigation and prosecution of the offender.



## DENMARK

Please, see the answer to question 1a.

Besides the option of a legal advocate, the victim may be assigned a designated police officer as a contact person. The contact person will be able to provide the victim with guidance and information about the victim's legal position and about the case. In addition, the contact person can tell the victim about options for special consideration to be taken when the victim appears in court. The contact person is either a police officer or a prosecutor.

Further steps may be taken to ensure the safety of the witness. Such steps are evaluated on a case by case basis in the aftermath of all serious crimes.



## ESTONIA

### Measures within criminal procedure

Estonian legislation provides for different measures of protection to victims of terrorism, who are witnesses in criminal procedure.

Hearing a witness via a telehearing or using a partition to hide the witness from the accused; additional safeguards for hearing of a minor; deposition of testimony

Pursuant to § 287 (5) of the Code of Criminal Procedure at the request of a party or on its own initiative, the court may allow a telehearing to be conducted or use a partition to hide the witness from the accused.

There are additional safeguards for hearing of witnesses who are minors (§ 290 of the Code of Criminal Procedure). For example, in the hearing of a witness under fourteen years of age, he or she shall not be cross-examined. A court may also involve a child protection official, social worker, teacher or psychologist. The accused may pose questions to the witness through the counsel. Taking into consideration the mental or physical condition and the age of a witness, the court may suspend the questioning by the parties and examine the witness on its own initiative or on the basis of the written questions prepared by the parties to the court proceeding.

Also, a prosecutor's office, suspect or counsel may request hearing, before a preliminary investigation judge, of a person who is a witness in a criminal proceeding, if the object of the criminal proceeding is an intentional criminal offence for which at least up to three years' imprisonment is prescribed as punishment and if circumstances arise which enable to conclude that later hearing of a witness in the court hearing of a criminal matter may be impossible or the witness may be influenced to give false testimony. This is called a deposition of testimony and it is regulated in § 69<sup>1</sup> of the Code of Criminal Procedure.

#### Declaring a witness anonymous

Section 67 of the Code of Criminal Procedure stipulates a possibility to declare a witness anonymous. This decision shall be made by the preliminary investigation judge at the request of the prosecutor. If the witness is made anonymous, a fictitious name shall be assigned to him/her. In a court proceeding, a witness bearing a fictitious name shall be heard by telephone using voice distortion equipment, if necessary. Questions may be also submitted to the witness in writing.

#### Specific measures of witness (victim) protection

Regardless of whether or not a witness has been declared anonymous, the provisions of the Witness Protection Act may be applied to the witness in order to ensure his or her safety.

Witness protection is applied if:

- 1) a person who may know facts relating to a subject of proof in a criminal case is under actual risk of falling subject to unlawful influence and the person consents to co-operate with the witness protection authority;
- 2) a person conducting the proceedings is under actual risk of falling subject to unlawful influence and the person conducting the proceedings consents to co-operate with the witness protection authority;

3) the victim is under actual risk of falling subject to unlawful influence or the suspect or accused person may continue to commit offences against him or her and if the victim consents to co-operate with the witness protection authority. Witness protection is applied during pre-trial and judicial proceedings and after judicial proceedings.

The following protection measures can be applied in witness protection:

- 1) physical protection of the protected person and his or her property;
- 2) provision of self-defence equipment for the protected person;
- 3) provision of new telecommunications or telecommunication numbers for the protected person;
- 4) provision of new registration marks for the means of transportation of the protected person;
- 5) provision of new place of residence, workplace or place of studies for the protected person;
- 6) secret relocation of the protected person to a safe area or locality;
- 7) changing the appearances of the protected person through plastic surgery;
- 8) creation of new identity for the protected person;
- 9) other protection measures.

## FINLAND

Victims of terrorist acts are subject to chapter 11, section 9a of the Criminal Investigation Act (personal assessment of a complainant), which provides that the criminal investigation authority shall, without undue delay, assess whether the complainant needs special protection when the matter is being considered in criminal investigation or judicial proceedings. The right to protection measures is not only reserved for victims of terrorism.

The assessment must take account of the nature of the crime, and it is very probable that a terrorist act would be considered as a crime that warrants a thorough assessment of the complainant's needs for protection, if also the person himself or herself so wishes. The actual protection measures derived from this section are listed in the same section.

For example, the victim may be heard in a trial behind a screen via video connection or without the accused or public being present. The questioning of a victim may in some cases be video-recorded and the recording then be used as evidence in a trial, for example in cases where the victim is under 18 years of age.

## FRANCE

En droit français, les témoins sont définis comme « *Les personnes à l'encontre desquelles il n'existe aucune raison plausible de soupçonner qu'elles ont commis ou tenté de commettre une infraction et qui sont susceptibles d'apporter*

des éléments de preuve intéressant la procédure (...) » (article 706-57 du code de procédure pénale). Les victimes peuvent répondre à cette définition.

Plusieurs dispositifs permettent de protéger les témoins d'actes de terrorisme. Il s'agit notamment des procédures d'anonymisation ou des programmes de protection pouvant aller jusqu'à l'octroi d'une identité d'emprunt, qui existent en droit commun (a). Un dispositif spécifique a également été mis en place pour la protection des témoins d'actes de terrorisme (b).

(a) Les dispositifs de droit commun de protection des témoins

- L'absence de mention de l'adresse du témoin en procédure

L'article 706-57 du code de procédure pénale prévoit que le témoin peut « (...) sur autorisation du procureur de la République ou du juge d'instruction, déclarer comme domicile, l'adresse du commissariat ou de la brigade de gendarmerie. Si la personne a été convoquée en raison de sa profession, l'adresse déclarée peut être son adresse professionnelle. (...) ». L'adresse personnelle du témoin est inscrite sur un registre spécial coté et paraphé. La révélation de cette adresse est punie de cinq ans d'emprisonnement et 75 000 euros d'amende.

- Le témoignage sous X

Les dispositions des articles 706-58 à 706-63 du code de procédure pénale permettent à la victime de témoigner sans que son identité ne figure dans le procès-verbal d'audition (elle sera consignée dans un dossier distinct conservé par le procureur de la République). Sauf exception, son identité n'apparaît dans aucun acte de la procédure ni à l'audience.

- Le statut de témoin « confidentiel »

La loi n° 2016-731 du 3 juin 2016 **renforçant la lutte contre le crime organisé, le terrorisme et leur financement, et améliorant l'efficacité et les garanties de la procédure pénale** a créé un statut de « témoin confidentiel ». Il s'agit d'un dispositif intermédiaire de protection des témoins, permettant de ne faire référence à leur identité que par un numéro. L'identité du témoin apparaît alors dans la procédure et est connue des parties, mais n'est pas rendue publique.

(b) Le dispositif de protection des témoins d'actes de terrorisme

La loi du 3 juin 2016 précitée a étendu aux témoins d'actes de terrorisme et à leurs proches le dispositif de protection applicable aux collaborateurs de justice<sup>55</sup>, lorsque leur audition est susceptible de mettre gravement en danger leur vie ou leur intégrité physique ou celle de leurs proches.

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<sup>55</sup> Il s'agit des personnes bénéficiant d'exemptions ou de réductions de peines pour avoir permis d'éviter la réalisation d'infractions, de faire cesser ou d'atténuer le dommage causé par une infraction, ou d'identifier les auteurs ou complices d'infractions.

Ces témoins pourront ainsi bénéficier, en tant que de besoin, de mesures de protection et de réinsertion et en cas de nécessité, d'une identité d'emprunt telles que définies par l'article 706-63-1 du code de procédure pénale.

Les mesures de protection et de réinsertion ne sont pas limitativement énumérées et peuvent consister pour les premières en une protection physique, une re-domiciliation des personnes concernées et de leur famille, une protection en milieu carcéral, et pour les familles, en la mise en place notamment d'un suivi psychologique, la scolarisation des enfants ou encore une formation professionnelle.

S'agissant de l'identité d'emprunt, elle ne modifie pas les actes d'état civil existants qui demeurent valables et ne portent aucune mention de l'attribution d'une identité d'emprunt.

Le fait de révéler qu'une personne fait usage d'une identité d'emprunt ou de révéler tout élément permettant son identification ou sa localisation est puni de cinq ans d'emprisonnement et de 75 000 euros d'amende. Elle est punie de sept ans d'emprisonnement et 100 000 euros d'amende lorsque cette révélation a eu pour conséquence directe ou indirecte des violences à l'encontre de cette personne, de son conjoint, de ses enfants ou de ses ascendants directs. Enfin, les peines sont portées à dix ans d'emprisonnement et 150 000 euros d'amende lorsque cette révélation a eu pour conséquence directe ou indirecte la mort de cette personne, de son conjoint, de ses enfants ou de ses ascendants directs.

Comme dans le cadre du dispositif de protection des collaborateurs de justice, c'est la Commission nationale de protection et de réinsertion (CNPR) qui, en application des dispositions de l'article 706-63-1 du code de procédure pénale, est chargée d'examiner les demandes de mesures de protection, de définir celles qui seront retenues au bénéfice des témoins et de se prononcer sur l'opportunité de recourir à une identité d'emprunt.



## GERMANY

Victims of terrorist attacks have the same rights as other crime victims. In the case of terrorist attacks resulting in death, the victims and/or their relatives have special procedural rights as private accessory prosecutors (see answer to 7 above). Furthermore, German criminal procedure law also provides, e.g., the following opportunities to protect witnesses:

- According to section 247 of the Code of Criminal Procedure (*Strafprozessordnung – StPO*), the defendant may be temporarily removed from the courtroom during the witness examination at trial.
- If there are reasons for concern that the witness would be endangered by stating her address, pursuant to section 68 (2) and (3) StPO the witness may be allowed to state her business or work address instead of her home address; also, the presiding judge may allow the witness to not state her address at trial.



- Examinations in court, by public prosecutors and the police during the investigation proceedings may be recorded pursuant to section 58a StPO. If the preconditions named in section 255a StPO have been fulfilled, this examination of the witnesses may be played at trial and replace a renewed examination.



## MONACO

Les victimes d'actes terroristes pourraient témoigner sous le régime du témoignage anonyme, prévu aux articles 147-1 à 147-6 du Code de procédure pénale, lequel permettrait à la victime de témoigner librement, sans être soumise à une manœuvre d'intimidation.

Par ailleurs, des mesures de protection spécifiques se mettraient naturellement en œuvre, en lien avec le Parquet général.



## MONTENEGRO

The Criminal Procedure Code of Montenegro prescribes that if reasonable concern exists that by giving a statement or answering certain questions witnesses would put in danger their, their spouse's, close relative's or a close person's life, health, physical integrity, freedom or property of great value, witnesses may withhold from giving the data, regarding : their first name and surname, their father's or mother's name, occupation, place of residence, place and year of birth, and their relation to the accused and the injured party. Witness may also withhold from answering certain questions or giving the statement altogether until their protection is secure.

Protection of witnesses during the criminal proceedings consists of special ways of participating and hearing witnesses in the criminal procedure: hearing of witnesses under pseudonym, hearing with assistance of technical devices (protective wall, voice simulators, devices for transmission of image and sound) and alike.

Montenegrin legal system regulates likewise the protection of witnesses beyond the criminal procedure in line with the Law on Witness Protection. The protection of witness, i.e. their close relative is provided by the application of the Program on protection of witnesses. The Program of protection is a set of measures which are applied to protect their life, health, physical integrity, freedom or property of great value, or their close relative's or close person's. The Program of protection may be applied only with the consent of the witness or his close relative. The Program of protection may be applied to a minor only with the consent of the parent or custodian, and to the person who are partially or completely deprived of capacity, only with the consent of the person authorized to represent him or the custodian.



## NORWAY

Victims of crime, including terrorism, are protected by a number of provisions in The Criminal Procedure Act in case they participate as witnesses in criminal proceedings. According to section 136, the court shall ensure that the examination is conducted in a manner that shows reasonable consideration for the witness. Pursuant to section 284, the court may decide that the defendant or other persons shall leave the courtroom during the examination of the aggrieved person. In some cases, including cases concerning terrorist acts, the court may decide to hear the evidence of an anonymous witness, if knowledge of his or her identity may entail certain risks. It can also be noted that the criminal proceedings may be held behind closed doors pursuant to The Act Relating to the Courts of Justice section 125.



## NETHERLANDS

In the Netherlands, in case of certain risks with regard to their security or repeated victimization, victims of terrorism have the same rights as victims of other serious crimes.



## NORTH MACEDONIA

Not specifically for victims of terrorist acts.

Article 54 of the Law on Criminal Procedure prescribes the special rights of vulnerable categories of victims. The victims shall have the right to special measures of process protection when giving statement or being interrogated during all stages of the procedure:

- 1) if, at the time when giving the statement, the victim is less than 18 years of age;
- 2) if giving a statement or an answer to a certain question would mean exposing themselves or another close person to a serious threat for their life, health or physical integrity (endangered victims);
- 3) if, because of their age, the nature and consequences of the crime, the physical or psychological disability or another significant health condition, the social or cultural history, family circumstances, religious beliefs and the ethnic affiliation of the victim, the behavior of the defendant, members of the defendant's family or friends towards the victim, there might be harmful consequences for their psychological or physical health or if it has a negative effect on the quality of the statement provided (especially vulnerable victims).

In paragraph (2) of the said article it is stated that: the special measures of process protection shall be determined by the court, upon proposal from the public prosecutor or the victim, or upon its own initiative, when it is necessary to protect the endangered and especially vulnerable victims. When deciding on the

determination of the special measures of process protection referred to in paragraph 2 of this Article, the court shall have to take into account the victim's will.

In this article of the Law on Criminal Procedure, it is stated that court shall have to assign special measures of process protection in the cases as referred to in paragraph 1, item 1 of this Article:

- 1) when a child victim has a need for special care and protection; or
- 2) when the child is a human trafficking victim, victim of violence or sexual abuse.

In cases as referred to in paragraph 4, individually or along with another special measure of protection, the court has to ask for a video and audio recording of the statement and interrogation of the child, so that it can be used as evidence in the procedure. In exceptional cases, because of newly established circumstances in the case, the court may order additional interview of the child victim, once more at the most, through the use of technical means of communication.

As special measures of procedural protection when giving a statement, the court may determine:

- using screens protecting the victim and the witness from the defendant's view,
- hiding the identity or appearance,
- giving a statement via video - conference,
- removing judge`s gowns and caps,
- exclusion of the public,
- video and audio record of the statement to be used as evidence,
- video and audio recordings of the interrogation to be used as evidence,
- taking a statement by an expert,
- use of special technical means of communication and
- protection of the privacy of the child and his / her family.

## **POLAND**

In Poland, victims or witnesses of criminal acts, may be granted specially designed protection (the aim of which is to protect both the victims and their relatives) if such a need is recognised by the competent authorities.

Victims of terrorist offences, if they participate as witnesses in criminal proceedings concerning a terrorist act, can take advantage of numerous instruments serving their protection *sensu largo*. First of all, the Code of Criminal Procedure contains detailed regulations guaranteeing partial or complete anonymity of witnesses and victims.

To this end, Article 148a of the Code of Criminal Procedure prohibits the placement of data regarding the place of residence and work of these persons

in the protocol of their interrogation included in the casefile. Such data are placed in a separate annex with addresses which is available only to the authority conducting the proceedings.

In the event of a justified fear of danger to life, health, liberty or significant property of the witness or his/her next of kin, the court, and in the preparatory proceedings the prosecutor, may issue an order on the basis of Article 184(1) of the Code to keep the circumstances allowing the disclosure of the identity of the witness secret, including his/her personal data, if they are of no relevance for the outcome of the case. If such an order is issued, the circumstances referred to in the said provision are available solely to the court and prosecutor, and when necessary – to the Police officer conducting the proceedings. The protocol of the witness hearing is made available to the accused or his/her counsel only in a way that prevents the disclosure of circumstances allowing the witness to be identified.

The witness is interrogated by the prosecutor, as well as by the court that may order that this action is performed by one of its member judges - in a place and in a way that precludes the disclosure of circumstances allowing the witness to be identified. In addition, it is possible to interview the witness using technical devices that enable carrying out this activity at a distance (e.g. via videoconference).

During the trial, Article 390(2) of the Code of Criminal Procedure may apply, allowing the witness to be questioned in the absence of the accused.

Apart from the regulations of the Code of Criminal Procedure, the Polish legal system provides for additional instruments of witness and victim protection, resulting from the Act on Protection and Assistance for the Victim and Witness, adopted on 28 November 2014. This Act regulates protection and assistance measures for the victims and witnesses as well as their next of kin, if there is a threat to their life or health in connection with pending or completed criminal proceedings, in which they participate.

The protection and assistance measures that are available to witnesses and victims include:

- protection for the time of a procedural action,
- personal protection, and
- assistance in changing the place of stay.

Measures of such protection and assistance are granted by the voivodship commander of the Police, in whose territorial remit the victim, witness or their next of kin are staying.

- Protection for the time of a procedural action may be granted in the event of a threat to the life or health of a protected person and it consists in the presence of Police officers in the vicinity of the protected person during the procedural act with that person's participation, on the way to the place of carrying out this act or on the way back.

- Personal protection may be provided in the case there is a threat of high degree to the life or health of a person protected in connection with criminal proceedings, if there is a need for the long-term protection in cases falling under the jurisdiction of regional courts (including terrorist offences) and in other cases in particularly justified situations. Personal protection may consist of:
  - temporary or permanent presence of Police officers in the vicinity of the protected person,
  - temporary observation of the protected person and the environment in which he/she is staying,
  - indicating to the protected person of safe places of residence as well as the time and safe way for moving,
  - determining the scope, conditions and manner of contact between the protected person and other persons.
- Assistance in changing the place of stay can be provided in the case there is a threat of high degree to the life or health of a person protected in connection with criminal proceedings, if the long-term protection is required, and other measures of protection and assistance may be insufficient. However, this form of assistance is limited to cases of proceedings in cases under the jurisdiction of regional courts, and also in other cases in particularly justified situations.

A person who has been provided with assistance regarding the change of place of stay and who has no means of subsistence and is not able to take up work due to the threat to life or health, may be granted:

- financial assistance intended to satisfy her/his basic living needs,
- covering all or part of the costs of temporary accommodation or renting a flat, and
- covering the costs of obtaining healthcare services.



## **PORTUGAL**

YES. Law no. 93/99, of 14 July, on witness protection applies. Special protective measures may be applied in case of danger to their life, physical or mental integrity, freedom or property. Such measures may include, for instance, providing testimony by videoconference, non-disclosure of identity, police or escort protection, provision of special equipment, change of place of residence, separate waiting areas in the court. These measures may also be extended to family members or other close associates.



## SPAIN

Yes, according to regulation also included in our Criminal Law and in Law 4/2015, of 27<sup>th</sup> April, on the Standing of Victims of Crime:

**Article 19. Victims' right to protection.**

The authorities and officials responsible for investigating, prosecuting and trying offences shall, in accordance with the Criminal Procedure Rules, employ the measures necessary to protect victims and their relatives, to ensure their physical and psychological integrity, freedom, safety and sexual freedom and indemnity, as well as adequately protecting their privacy and dignity, particularly where they make a statement or have to testify in court, to avoid the risk of secondary or repeat victimisation.

In the case of victims who are minors, the public prosecutor's office must take particular care to ensure that this right to protection is complied with, adopting adequate measures in the victims' best interests where necessary to prevent or reduce any harm which the conduct of the proceedings may cause them.



## SWEDEN

Protection against threats and reprisals is offered to the injured party and their family members through various measures, both during the preliminary investigation stage and after the trial. The police are to make an individual protection assessment as soon as possible to determine an injured party's need for special protective measures during the preliminary investigation and the trial (Section 13f of the Preliminary Investigations Ordinance). In this assessment, particular consideration must be given to the severity of the offence and the injured party's personal circumstances. An injured party who is under 18 must always be considered to have a special need for protection. For victims with the most extensive protection needs, it may be necessary to take measures within the police's special personal security operations. There is also an opportunity to give the injured party protected personal data. 'Secrecy marking', fictitious personal data and remaining registered at an old address are methods that can be used to protect particularly vulnerable injured parties from negative consequences of crime. Regarding measures aimed at ensuring the safety and privacy of an injured party and members of their family during the preliminary investigation and the trial, there is also an opportunity to take decisions on hearings taking place behind closed doors, security checks, people listening in on questioning and presence via video link.



## SWITZERLAND

Oui. Il existe des mécanismes de protection procéduraux ordonnés par la direction de la procédure *ex officio* ou *upon request*. Indépendamment de la procédure pénale, il existe si nécessaire la protection extraprocédurale des témoins (Loi fédérale sur la protection extraprocédurale des témoins ; RS 312.2).



## TURKEY

In accordance with Article 58 of the Code of Criminal Procedure no. 5271, if disclosure of the identity would gravely endanger the witness or his/her relatives, necessary measures shall be taken in order to hide the identity of the witness. The personal data regarding the witness shall be secured by the public prosecutor, judge or the court in order to hide his/her identity. If there exists a probable grave danger for the witness of being heard in the presence of others and if there are no other means of preventing this danger or other measures would endanger the aim of revealing the factual truth, the judge is empowered to hear the witness in the absence of others who have the right to be present at the court. During the hearing of the witness, voice and image shall be transmitted. The right to ask questions is reserved.

The measures in order to hide the identity of the witness or provide protection for the witness after he/she has testified before the courts are provided in the Law on Witness Protection no. 5726.

With regard to the Law on Witness Protection, witness protection measures are as follows; change of identity and address information, being heard in the absence of others who have the right to be present at the court or being heard in a special environment by changing voice or appearance, enabling physical protection, providing financial assistance in order to temporarily help him/her to make a living, changing the workplace or field of business, or changing the educational institution, relocation within the country or temporary relocation to another country in accordance with international agreements and the principle of reciprocity, altering physical appearance with or without plastic surgery and issuing a new identity in line with these.

### **12. Have the victims ensured the access to an effective remedy to claim against an unlawful violation of their private and family life?**



## AUSTRIA

Yes:

According to § 7a of the Austrian Federal Act on the Press and other Publication Media (**Media Act – Mediengesetz**) victims of criminal offences in general have the right to protection against the publication of their identity (§ 7 para. 1 sub-para. 1) and under certain conditions may claim from the media owner indemnity for the injury suffered. The indemnity must not exceed 20,000 euros.



Les recours de droit commun sont ouverts à ces atteintes.

De manière générale, en ce qui concerne l'utilisation de toutes formes d'images (par exemple, photos, films, DVD, Internet, lettres d'information électroniques, GSM, MMS, etc.), il faut renvoyer au droit à l'image (élaboré tant par la jurisprudence que sur la base de la doctrine) qui est un droit selon lequel toute image d'une personne mais également l'utilisation de cette image requièrent le consentement de la personne représentée. Ce droit est distinct de la protection de la vie privée. La prise d'une image et l'utilisation (ultérieure) de cette image sont soumises au consentement de la personne concernée. Le fait qu'une personne accepte d'être photographiée ou filmée ne signifie pas nécessairement qu'elle consent à la publication ou à la diffusion de ces images. Ces deux consentements sont distincts l'un de l'autre et doivent donc être demandés séparément. Les victimes qui trouvent que leur droit à l'image est violé, peuvent s'adresser à l'Autorité de la protection des données (pour plus d'informations, voir [Principe | Autorité de protection des données](#)).

Les victimes peuvent également porter plainte auprès du Raad voor Journalistiek (pour les médias néerlandophones, <http://www.rvdj.be/node/120>) et du Conseil de déontologie journalistique (pour les médias francophones et germanophones, <https://lecdj.be/comment-introduire-une-plainte-au-conseil-de-deontologie-journalistique/>), voir infra réponse question 13.

Dans le cadre des procédures judiciaires, il est renvoyé aux éléments suivants.

Les articles 28quinquies, § 3 (si l'affaire est en information) et 57, § 3, (si l'affaire est en instruction) du CIC prévoient des conditions que le ministère public doit respecter lorsque des informations sont données à la presse. Ainsi, il doit veiller au respect de la présomption d'innocence, des droits de la défense des personnes soupçonnées, des victimes et des tiers, de la vie privée et de la dignité des personnes. Dans la mesure du possible, l'identité des personnes citées dans le dossier n'est pas communiquée.

La circulaire OMP 1/2019 du Collège du ministère public organisant la communication du ministère public vers les médias donne des instructions spécifiques au ministère public et aux services de police à ce sujet.

En ce qui concerne le contenu de la communication, il est particulièrement renvoyé au point 11.3. de cette circulaire :

« 11.3. En ce qui concerne la victime et ses proches, aucun détail susceptible de provoquer une victimisation secondaire ne peut être livré. Leur droit au respect de la vie privée doit être garanti.

Dans la mesure du possible, l'on doit veiller à ce qu'ils n'apprennent pas directement par la presse certains faits ou éléments sensibles du dossier qui les



concerne. Si la presse semble avoir connaissance de l'identité de la victime, il peut lui être demandé de ne pas la révéler jusqu'au moment où les membres de la famille proche sont informés par les autorités judiciaires ou administratives. ».

La COL 17/2012, Circulaire commune du ministre de la Justice, du ministre de l'Intérieur et du Collège des procureurs généraux concernant, en cas d'intervention des autorités judiciaires pour le traitement respectueux du défunt, l'annonce de son décès, le dernier hommage à lui rendre, la restitution de ses effets personnels et le nettoyage des lieux, contenait déjà des directives spécifiques pour les acteurs du terrain lorsque leurs interventions ont trait entre autres aux situations suivantes :

- prendre des mesures appropriées pour soustraire immédiatement le défunt au regard du public;
- veiller à ne pas laisser la presse, ou toute autre personne, prendre des photos ou filmer. En effet, ceci pourrait être choquant pour les proches et contraire au respect dû au défunt;
- faire l'annonce du décès le plus rapidement possible et de mettre tout en œuvre pour éviter que les proches n'apprennent le décès par voie de presse ou par toute autre voie.

Dans la version future et actualisée de la COL, actualisation qui vise à insérer des directives spécifiques relative à la méthode d'identification spécifique de défunts et de victimes inconscientes non identifiées en général et en cas d'attentats terroristes ou de catastrophes majeures, ces directives sont complétées avec des dispositions spécifiques à l'égard de ces victimes.

Enfin, la publication et la diffusion de textes, de dessins, de photographies ou d'images de nature à révéler l'identité de victimes de violence sexuelle sont interdites, sauf de l'autorisation écrite de la victime elle-même, ou de l'autorisation, dans l'intérêt de l'enquête, du magistrat chargé » de l'enquête, voir l'article 378bis du Code pénal :

« La publication et la diffusion par le livre, la presse, la cinématographie, la radiophonie, la télévision ou par quelque autre manière, de textes, de dessins, de photographies, d'images quelconques ou de messages sonores de nature à révéler l'identité de la victime d'une infraction visée au présent chapitre sont interdites, sauf si cette dernière a donné son accord écrit ou si le procureur du Roi ou le magistrat chargé de l'instruction a donné son accord pour les besoins de l'information ou de l'instruction.

Les infractions au présent article sont punies d'un emprisonnement de deux mois à deux ans et d'une amende de trois cents euros à trois mille euros ou d'une de ces peines seulement. »



## DENMARK

Please, see the answer to question 8.



## ESTONIA

Yes, victims have recourse to civil court to seek compensation in such occasions (if violation is committed by the media for example).



## FINLAND

A victim's right to privacy is protected through criminal law provisions which prohibit dissemination of information violating personal privacy. The self-regulation of media is based on the Guidelines for Journalists of the Council for Mass Media (CMM) in Finland. The protection of the privacy of the victim is taken into account in the guidelines. It is stated in the guidelines, for example, that discretion must always be exercised when reporting on deaths or on victims of accidents or crimes and that the right to privacy also applies when publishing public documents.

Any person who considers that there has been a breach of good professional practice by media may bring this to the attention of the CMM. Once the CMM has established that good professional practice has been breached, it issues a notice which the party in violation must publish within a short time span. The CMM does not exercise legal jurisdiction.



## FRANCE

La législation française prévoit plusieurs fondements pouvant servir de base à l'action en justice au plan pénal des victimes d'actes de terrorisme qui sont également victimes d'atteinte illicite à leur vie privée et familiale.

De manière générale, l'article 226-1 du code pénal punit d'un an d'emprisonnement et de 45 000 euros d'amende le fait, « *au moyen d'un procédé quelconque, volontairement de porter atteinte à l'intimité de la vie privée d'autrui : 1° en captant, enregistrant ou transmettant, sans le consentement de leurs auteurs, des paroles prononcées à titre privé ou confidentiel ; 2° en fixant, enregistrant ou transmettant, sans le consentement de celle-ci, l'image d'une personne se trouvant dans un lieu privé* ».

Plus spécifiquement, l'article 11 du code de procédure pénale dispose que « *Sauf dans le cas où la loi en dispose autrement et sans préjudice des droits de la défense, la procédure au cours de l'enquête et de l'instruction est secrète. Toute personne qui concourt à cette procédure est tenue au secret professionnel dans les conditions et sous les peines des articles 226-13 et 226-14 du code pénal* ». Par ailleurs, en application de l'article 226-13 du code pénal, « *La révélation d'une information à caractère secret par une personne qui en est dépositaire soit par état ou profession, soit en raison d'une fonction ou mission temporaire, est punie d'un an d'emprisonnement et de 15 000 euros d'amende* ».

Les victimes de tels faits peuvent ainsi déposer plainte, entraînant une enquête ouverte à l'initiative du procureur de la République, lorsqu'un fait de violation du secret de l'instruction est porté à sa connaissance.

Par ailleurs, des dispositions spécifiques sont prévues dans la loi du 29 juillet 1881 sur la liberté de la presse. Ainsi, l'article 35 quater de cette loi dispose que « *L'0a diffusion, par quelque moyen que ce soit et quel qu'en soit le support, de la reproduction des circonstances d'un crime ou d'un délit, lorsque cette reproduction porte gravement atteinte à la dignité d'une victime et qu'elle est réalisée dans l'accord de cette dernière, est punie de 15 000 euros d'amende* ».

Enfin, les mineurs bénéficient d'une protection particulière : l'article 39 bis de cette loi prohibe le fait de diffuser, de quelque manière que ce soit, des informations relatives à l'identité ou permettant l'identification d'un mineur victime d'une infraction. Ces faits sont punis d'une peine de 15 000 euros d'amende.



## GERMANY

All legal remedies of the German legal system are available to victims of terrorist attacks in the case of an unlawful violation of their private and family life.



## PORTUGAL

YES. An adequate level of protection for the victim and, where appropriate, his/her relatives listed in Article 67A (1) (c) of the Code of Criminal Procedure, in particular with regard to security and safety of private life of the victim, shall be ensured, where the competent authorities consider that there is strong evidence that such privacy may be disturbed.



## MONACO

Les victimes d'actes terroristes disposent de la possibilité de porter plainte relativement aux infractions d'atteinte à la vie privée et familiale prévues aux articles 308-2<sup>56</sup>, 308-3<sup>57</sup> et 308-6<sup>58</sup> du Code pénal.

De plus, elles disposent, conformément à l'article 23 du Code civil, d'une action leur permettant de demander en justice qu'il soit mis fin à l'atteinte à leur droit au respect de la vie privée et familiale garanti par l'article 22 de la Constitution, et de réclamer des dommages-intérêts, en raison du préjudice subi.



## MONTENEGRO

Yes, claim for damages in civil proceeding.

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<sup>56</sup> « Sera puni d'un emprisonnement de six mois à trois ans et de l'amende prévue au chiffre 4° de l'article 26, dont le maximum pourra être élevé au double, quiconque aura sciemment porté ou tenté de porter atteinte au droit au respect de la vie privée et familiale d'une personne vivante ou décédée, visé à l'[article 22 du Code civil](#), en se livrant, sans qu'il y ait eu consentement de celle-ci, à l'un des actes ci-après :

\* 1° écouter, enregistrer ou transmettre, par quelque moyen que ce soit, des paroles prononcées par la personne dans un lieu privé ;

\* 2° fixer ou transmettre son image, alors qu'elle se trouve dans un lieu privé.

Le consentement sera toutefois présumé lorsque ces actes auront été accomplis dans une réunion, au vu et au su de la personne concernée.

La confiscation du matériel utilisé et des documents ou enregistrements obtenus sera prononcée ».

<sup>57</sup> « Sera puni des peines mentionnées à l'article précédent, quiconque aura sciemment porté ou tenté de porter atteinte au droit,

\* 1° conserver, porter ou laisser volontairement porter à la connaissance du public ou d'un tiers ou avoir utilisé, publiquement ou non, tout enregistrement ou document obtenu ;

\* 2° publier, par quelque voie que ce soit, le montage réalisé avec les paroles ou l'image de la personne concernée.

La confiscation de l'enregistrement ou du document obtenu, du montage réalisé et de son support sera prononcée. »

<sup>58</sup> « Quiconque aura sciemment usurpé l'identité d'un tiers ou une ou plusieurs données de toute nature permettant de l'identifier en vue de troubler sa tranquillité ou celle d'autrui, ou de porter atteinte à son honneur ou à sa réputation ou de l'utiliser pour en tirer un profit quelconque, sera puni d'un emprisonnement de six mois à trois ans et de l'amende prévue au chiffre 4 de l'article 26 dont le maximum pourra être porté au double.

Cette infraction est punie des mêmes peines lorsqu'elle est commise sur un réseau de communication par voie électronique ».



## **NETHERLANDS**

The right to be treated in a respectful manner is codified in Article 51aa of the Dutch Code of Criminal Procedure and further elaborated in the Decree on the Victims of Crime. The Decree furthermore obliges the authorities to provide for an individual assessment of the specific needs of (certain) victims.

Depending on the nature of the violation there are also criminal law or civil law remedies. For instance: systematic stalking is punishable.



## **NORTH MACEDONIA**

There are legal remedies for protection of private and family life in line with the Criminal Procedure Code.



## **NORWAY**

According to The Penal Code section 267, any person who by public communication violates the privacy of another person shall be subject to a fine or imprisonment for a term not exceeding one year.

Moreover, according to the The Damage Compensation Act section 3-6 paragraph one, anybody who infringes the privacy of another person shall, if he has been negligent or the conditions for imposing punishment are fulfilled, pay compensation for the injury sustained and such compensation for loss of future earnings as the court finds reasonable with due regard to the degree of guilt and other circumstances. He may also be ordered to pay such compensation (redress) for non-financial injury as the court finds reasonable. If anybody who has acted in the service of the owner or publisher of a mass media is responsible under section 3-6 paragraph one, the owner and publisher too are liable for the compensation, cf. section 3-6 third paragraph. The same rule applies to any redress imposed under section 3-6 paragraph one, unless the court for special reasons decides to exempt them. The owner or publisher may also be ordered to pay such additional redress as the court finds reasonable in regard to them.



## **POLAND**

As already stated, the protection of private life and family life of the victims of crime is one of the relevant factors which is taken in consideration in the investigation on different levels and the authorities conducting proceedings are sensitised to this aspect.

The victims also benefit from all legal remedies aimed at protection of private and family life applicable generally, including under the Civil Code.

The provisions of the Civil Code guarantee full protection of personal rights, the catalogue of which is determined by Article 23 in an open and non-exhaustive manner, encompassing for instance: health, freedom, respect or image. The Civil Code (by virtue of Article 24 in conjunction with Articles 415 and 448) affords remedies for the protection of personal rights and provides, in a comprehensive manner, the possibility to obtain adequate redress – both in cases where a risk of infringement of personal rights merely occurs (in such cases a person may demand that an action is ceased unless it is not unlawful) and in cases where personal rights have actually been infringed (in such cases a person may also demand that a person who has committed the infringement should take the necessary actions to remove the consequences thereof, and especially, that she or he should submit an appropriate statement in an appropriate form). In accordance with Civil Code rules, financial just satisfaction or payment of an adequate sum of money to a social cause may be demanded (Article 448 of the Civil Code), and if the infringement of a personal right has resulted in a material damage, the injured party may demand that such damage should be repaired as well (Article 415 *et seq.* of the Civil Code).



## SPAIN

Yes. In addition to general regulation on privacy for any citizen, and according to Law 4/2015, of 27<sup>th</sup> April, on the Standing of Victims of Crime:

*Article 22. Right to protection of privacy.*

The judges, courts, public prosecutors and other authorities and officials responsible for the criminal investigation, as well as all those who take part in the proceedings in any way, must, in accordance with the law, employ the measures necessary to protect the privacy of all victims and their relatives and, in particular, to prevent the disclosure of any information which could identify victims who are minors or victims with disabilities and in need of special protection.

And also according to Act 29/2011 of 22 September, Chapter 7 of Title Four reflects the importance given by society as a whole to the defence and protection of the dignity of victims of terrorism. Protection of victims' privacy, the banning of publicity aimed at humiliating or degrading victims and their families, avoidance of disproportionate or inadequate use of their personal images by the mass media, and training and awareness-raising of mass-media professionals through activities and campaigns by the Public Administrations shall all result in the victims' dignity being respected at all times.



## SWEDEN

See answers to questions 7 and 8.



## SWITZERLAND

Il n'existe là non plus aucune disposition légale spécifique. Les dispositions pénales correspondantes relatives à la protection du domaine secret ou privé (art. 179ss du code pénal suisse ; CP, RS 311.0) sont applicables et protègent également les victimes et leurs proches contre les infractions terroristes, par exemple dans le cas d'atteintes contre des représentants des médias. Pour l'essentiel, les règles du code civil (CC ; RS 210) devraient s'appliquer dans ce contexte, en particulier celles relatives à la protection de la personnalité (art. 28ss CC).



## TURKEY

(See reply under question 8 / voir réponse sous question 8).

**13. In this regard, has your country undertaken any measure in order to raise awareness of media and journalists (in full compliance with the freedom of expression) about the protection of the victim's rights in the framework of their information activity?**



## BELGIUM

Plusieurs initiatives prises en collaboration avec les médias ou en concertation avec les médias ont été prises à cet égard, dont entre autres les suivantes sont reprises :

- En 2008 une brochure « Face aux médias – Conseils aux victimes » a été réalisée dans une collaboration entre le Service Public Fédéral Justice, le Forum national pour une politique en faveur des victimes, Steunpunt Algemeen Welzijnswerk (Point d'appui d'aide sociale), Parents d'Enfants Victimes de la Route, ZEBRA – allié des jeunes de la route et Child Focus.
- En 2011, les ministres de l'Intérieur et de la Justice et des partenaires issus des mondes médiatique et social ont mis en œuvre un moyen simple afin d'aider les victimes et les membres de leurs familles dans leurs contacts avec les médias en cas de drame ou d'incident majeur. Il s'agit d'une petite carte reprenant des conseils de base que les policiers de première ligne peuvent immédiatement remettre aux familles concernées. Le but est d'éviter que les intéressés ne deviennent victimes une deuxième fois et ce, à cause d'informations relayées par les journaux, la radio, la télévision et les médias sociaux

(voir [www.victimesetmedias.be](http://www.victimesetmedias.be)). Ce lien est également repris sur les sites web du Raad voor Journalistiek et du Conseil de déontologie journalistique

Il convient également de renvoyer aux codes des déontologie du Raad voor Journalistiek et du Conseil de déontologie journalistique.

Pour le Raad voor Journalistiek, il peut être renvoyé en particulier aux dispositions suivantes:

« 15. – Le journaliste utilise des méthodes loyales pour le recueil et le traitement des informations, photos, images et documents.

Le journaliste n'abuse pas de sa qualité de journaliste, en particulier à l'égard des personnes qui se trouvent dans une situation sociale vulnérable, comme les mineurs victimes de criminalité, catastrophes et accidents et leur famille.

23. – Le journaliste respecte la vie privée des personnes et n'y porte pas plus atteinte que ce qui est nécessaire dans l'intérêt général de l'information.

Le journaliste sont particulièrement attentifs aux personnes qui se trouvent dans une situation sociale vulnérable, comme les mineurs victimes de criminalité, catastrophes et accidents et leur famille.

26. – Le journaliste respecte le chagrin des victimes et de leur entourage et ne s'impose pas de manière inappropriée lorsqu'il récolte des informations. »

Pour le Conseil de déontologie journalistique, il peut être renvoyé en particulier aux dispositions suivantes de leur Code déontologie journalistique:

« Art. 25 Les journalistes respectent la vie privée des personnes et ne révèlent aucune donnée personnelle qui ne soit pas pertinente au regard de l'intérêt général.

Art. 26 Les journalistes évitent l'intrusion dans la douleur des personnes et la diffusion d'informations et d'images attentatoires à la dignité humaine sauf ce qui est pertinent au regard de l'intérêt général.

Art. 27 Les journalistes sont particulièrement attentifs aux droits des personnes peu familiarisées avec les médias et des personnes en situation fragile comme les mineurs ou les victimes de violence, d'accidents, d'attentats, etc. ainsi que leurs proches.

Art. 28 Les journalistes ne mentionnent des caractéristiques personnelles que si celles-ci sont pertinentes au regard de l'intérêt général.

(...). »

La circulaire OMP 1/2019, voir aussi la réponse sous la question 12, est également à mentionner dans ce cadre. Des bonnes pratiques se sont développées. Il arrive de plus en plus que des moments de concertation entre les porte-paroles de la magistrature, le SPF Justice et la police sont organisés avec la presse en vue de soulever des situations concrètes problématiques. Il est à remarquer que, ces dernières années, les concepts de porte-parole et de communication externe sont fort évolués et professionnalisés, ce dont témoigne la circulaire 1/2019. Les victimes bénéficient également de cette professionnalisation. Une autre bonne pratique à mentionner est l'étroite concertation qui s'est développée entre les porte-paroles du ministère public, les services d'assistance aux victimes et les services d'assistance policière des



victimes en vue de veiller à ce que les victimes soient informées avant les médias et que les victimes ne doivent pas apprendre des nouvelles via la presse.

En Flandre, le ministre compétent, l'administration et les services d'aide aux victimes ont communiqué à la presse à différents moments l'offre de l'assistance aux victimes des attentats. En Fédération Wallonie-Bruxelles, une conférence de presse a également été organisée quelques semaines après les attentats du 22 mars 2016 en vue d'informer la presse et le citoyen des possibilités d'aide existantes pour les victimes.



## CROATIA

The Ministry of Justice issued a brochure on the rights of victims in the proceedings, available on the website in English and Croatian. New leaflets on victims' and witness support departments were printed. On the website of the Ministry of Justice there are useful information on victims, their rights and support organizations. [LINK](#)



## DENMARK

The Danish Press Ethical Rules includes rules concerning conduct contrary to sound press ethics. One of these rules is that victims of crimes or accidents shall be paid the greatest possible regard. The same rule applies to witnesses and the relatives of the persons concerned. Consideration and tact shall be shown in the collection and communication of pictorial material, including amateur photos. The Danish Press Complaints Commission determines whether the conduct of the media is contrary to sound press ethics. Its decisions are based on the "Advisory rules of sound press ethics" which formed part of the Media Liability Bill of 1991, but the "sound press ethics" standard keeps pace with developments in determination of what is unethical and adopts standpoints on new situations that arise.



## ESTONIA

Fortunately, there have been no terrorist acts in Estonia. However, the prosecutor's office has on numerous occasions (in criminal proceedings relating to other offences) emphasized the need to protect the rights of victims in criminal proceedings.



## FINLAND

No.

En France, le Conseil supérieur de l'audiovisuel (CSA) est l'autorité publique française de régulation de l'audiovisuel, créé par la loi n° 89-25 du 17 janvier 1989. Il agit au nom de l'Etat, qui lui délègue sa compétence en la matière.

Sa mission de régulation s'opère au service de la liberté d'expression dans l'intérêt du public et des professionnels. Elle repose sur le respect et la protection des droits et libertés individuels, la régulation économique et technologique du marché et la responsabilité sociale.

Concernant la protection des victimes en matière de terrorisme, le CSA a adopté le 20 novembre 2013 une recommandation relative au traitement des conflits internationaux, des guerres civiles et des actes terroristes par les services de communication audiovisuelle. Ce document recommande notamment aux éditeurs de veiller au respect de la dignité de la personne humaine, en particulier en s'abstenant de présenter de manière manifestement complaisante la violence ou la souffrance humaine lorsque sont diffusées des images de personnes tuées ou blessées et des réactions de leurs proches, et en préservant la dignité des personnes prises en otage, notamment lorsque leur image ou tout autre élément permettant de les identifier est utilisé par les ravisseurs.

Réuni le 11 février 2015 à la suite de la couverture médiatique des attentats de janvier 2015, le CSA a relevé 36 manquements de chaînes de radio et de télévision, dont 15 ont donné lieu à une mise en garde et 21, plus graves, ont justifié des mises en demeure.

Lorsqu'un éditeur fait l'objet d'une mise en demeure, notamment sur le fondement du respect du principe de dignité de la personne humaine, le constat d'un éventuel nouveau manquement sur le même fondement donne lieu à une procédure spécifique qui consiste à confier à un rapporteur indépendant la décision d'engagement des poursuites et l'instruction de l'affaire, susceptibles de conduire à une sanction prononcée par le Conseil.

Le 15 juillet 2016, suite à l'attentat de Nice ayant eu lieu la veille, le CSA a publié un appel aux télévisions et radios à la prudence et à la retenue, protectrices de la dignité humaine et de la douleur des personnes.

La loi n° 2016-987 du 21 juillet 2016 prorogeant l'application de la loi du 3 avril 1955 relative à l'état d'urgence et portant mesures de renforcement de la lutte antiterroriste a modifié la loi n° 86-1067 du 30 septembre 1986 relative à la liberté de communication et demandé au CSA d'élaborer un code de bonne conduite relatif à la couverture audiovisuelle d'actes terroristes.

Par suite, le CSA a adopté, le 20 octobre 2016, le texte intitulé « Précautions relatives à la couverture audiovisuelle d'actes terroristes ». Ce texte a été élaboré après plusieurs rencontres avec les représentants des médias audiovisuels et des journalistes ainsi qu'avec des experts, des organisations professionnelles, des représentants des victimes et le procureur de la République de Paris.

Il prend en compte les réflexions en cours et les meilleures pratiques utilisées au sein des rédactions des services de médias audiovisuels. Il contient un certain nombre de préconisations, relatives aux précautions nécessaires de la part des médias vis-à-vis des investigations judiciaires et de l'action des forces de sécurité, vis-à-vis de la présentation des terroristes et du traitement des images de propagande, de la fiabilité des informations diffusées, mais aussi vis-à-vis des victimes.

Ainsi, ce document rappelle que les articles 1<sup>er</sup> et 15 de la loi précitée du 30 septembre 1986 prévoient que la liberté de communication peut être limitée notamment par les exigences liées au respect de la dignité de la personne humaine. Il rappelle aussi la recommandation du 20 novembre 2013<sup>59</sup> qui énonce des règles à suivre afin de ne pas diffuser d'images pouvant porter atteinte à la dignité des victimes, des otages ou de leurs proches.

Au-delà, le document appelle à prendre en compte, dans le recueil des témoignages des victimes ou des témoins directs, l'état de vulnérabilité dans lequel ils peuvent se trouver. Il souligne que les éditeurs doivent garder à l'esprit que certaines personnes qui acceptent de témoigner peuvent être en état de choc et ne pas être réellement en mesure de consentir de manière éclairée à la captation de leur image ou de leur propos.

En outre, il appelle à une vigilance particulière concernant l'acquisition à titre payant de documents amateurs réalisés lors d'attaques terroristes. Il recommande de n'y recourir que de manière exceptionnelle, afin d'éviter d'encourager certaines personnes à capter des sons et des images lors d'événements dramatiques, dans la seule perspective de pouvoir les monnayer, sans prendre en considération l'effet de telles pratiques sur les victimes.



## GERMANY

Special memorial and informational events took place for those affected by the terrorist attack on Breidscheidplatz in Berlin; to protect those affected, there was no admittance for members of the press.



## MONACO

La Principauté n'ayant pas été frappée par des actes terroristes ou d'extrémisme violent assimilé à une entreprise à caractère terroriste, une sensibilisation des journalistes liée à cette thématique particulière n'a pas été réalisée.

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<sup>59</sup> Recommandation n° 2013-04 du 20 novembre 2013 du CSA relative au traitement des conflits internationaux, des guerres civiles et des actes terroristes par les services de communication audiovisuelle.



## NETHERLANDS

In the Netherlands, the Council for the judiciary (*Raad voor de rechtspraak*) has published guidelines for the press, inter alia concerning the protection of victims during the criminal trial (“Persrichtlijn”, 2013). Victim Support Netherlands (*Slachtofferhulp Nederland*) provides information for victims.



## NORTH MACEDONIA

No.



## NORWAY

Norwegian authorities have not undertaken any concrete awareness-raising measures aimed at the media or media professionals concerning the rights of victims of terrorist acts.

However, the Code of Ethics of the Norwegian Press contain provisions protecting victim's rights. Paragraph 3.9 states:

*"Proceed tactfully in journalistic research. In particular show consideration for people who cannot be expected to be aware of the effect that their statements may have. Never abuse the emotions or feeling of other people, their ignorance or their lack of judgment. Remember that people in shock or grief are more vulnerable than others."*

Also, there are has been considerable debate on the reporting on victims and survivors in the press and media associations following incidents like the terror attack 22 July 2011. Several independent academic studies were conducted about the media coverage and the survivors' contact with the media. One study, made by the Norwegian Centre for Violence and Traumatic Stress Studies, show that almost all survivors (94 percent) were contacted by the media. Nine out of ten allowed themselves to be interviewed at least once, and most perceived the contact with the media as positive.

In 2011 and 2012 the Press Complaints Commission received 64 complaints connected with the coverage of the terror attack. However, none of the complainants were survivors complaining about their contact with the media after the attack, and only one complaint was lodged by a survivor in relation with the trial. Of the 22 complaints that were subject to full appeal proceedings, fourteen were rejected. Eight media were found in breach of the ethical standards of the press.

The Norwegian Press Complaints Commission (PFU), which was established by the Norwegian Press Association, monitors and promotes ethical and professional standards in the Norwegian press. The Norwegian system is almost 100 years old and is often referred to as example for many newly established press councils worldwide.



## POLAND

There are many campaigns aimed at raising awareness of the general society, thus also media and journalists, about the rights of victims. For instance, in connection with the establishment of the Day of Victims of Crime (on 22 February), the Ministry of Justice organises the "Week of Assistance to Victims of Crime" every year. The Day of Victims of Crime was established by the Act of 12 February 2003 which stressed the need to constantly monitor the situation of victims of crime and actions taken to improve their position. The celebrations of the "Week" aim at drawing the attention to the needs of victims of crime. They are implemented as part of a comprehensive support programme for victims of crime.

Educational and information activities, including on the causes and conditions of crime and its prevention, and dissemination of knowledge on the rights of victims of crime is also one of the areas supported by the resources of the Assistance Fund for Victims and Post-penitentiary Assistance.



## PORTUGAL

YES. The media, when disclosing situations related to the commission of crimes, when the victims are children or young people or other especially vulnerable persons, cannot identify or transmit elements, sounds or images that allow for their identification. In case of not compliance, journalists and the media are committing the crime of disobedience. However, the media can report the content of the public acts of the criminal process related to the crime in question.



## SPAIN

**Yes.** According to regulation of Chapter 7 of Title Four of Act 29/2011 of 22 September, where it is reflected the importance given by society as a whole to the defence and protection of the dignity of victims of terrorism.

Protection of victims' privacy, the banning of publicity aimed at humiliating or degrading victims and their families, avoidance of disproportionate or inadequate use of their personal images by the mass media, and training and awareness-raising of mass-media professionals through activities and campaigns by the Public Administrations shall all result in the victims' dignity being respected at all times.

As an example of such activities, there has been a recent national seminar on how to inform about victims of terrorism, organized by the two Public Foundations: Memorial Centre and Victims' of Terrorism. For more info:

<http://fundacioncope.com/2019/02/10/foro-terrorismo-victimas/>



## SWITZERLAND

Aucune mesure spécifique ne s'applique aux victimes de terrorisme, mais le secteur des médias est sensibilisé à cet égard. Les Directives relatives à la «Déclaration des devoirs et des droits du/de la journaliste» du Conseil suisse de la presse, notamment, prévoient différentes obligations des médias en vue de respecter et protéger les droits de victimes dans le cadre de leur activité d'information (par exemple directive 8.3. concernant la protection des victimes).



## TURKEY

There are ongoing efforts to strengthen the victims' access to justice under the auspices of the Department of Victims' Rights of the Ministry of Justice. Within this scope, a website ("[www.magdur.gov.tr](http://www.magdur.gov.tr)") is under construction, which will include information regarding the rights of the victims of crime, particularly victims of sex crimes, domestic violence and terrorism. Besides, the website will include necessary information with regard to the services provided to victims of crime.

The website is being designed in a plain and easily accessible way. Accordingly, when the victims of crime access the website, they will be easily informed of the rights that they have, the types of services they can receive and the institutions rendering those services, furthermore they will be informed of the procedures they would follow.

### **14. Has your country set up any mechanism to co-operate with civil society representatives, and especially those of the associations related to victims of terrorist acts?**



## AUSTRIA

Yes:

Based on annual contracts with the Federal Ministry for Constitution, Reforms, Deregulation and Justice 47 NGOs provide psycho-social and legal assistance to victims in court proceedings according to § 66 para. 2 CCP.



## BELGIUM

Les deux associations belges pour les victimes de terrorisme ont été associées aux travaux de la Taskforce interfédérale Victimes de terrorisme. Cette Taskforce a été créée sur décision du Conseil des ministres fédéral du 14 mai 2017, suite à la demande de la Commission d'enquête parlementaire « Attentats terroristes ».

Le taskforce a travaillé sur la base d'un plan d'action qui donnait forme à la mise en œuvre des recommandations de la Commission d'enquête via des groupes de travail dans lequel étaient représentés les départements concernés et, le cas échéant, des représentants des associations.

Un projet d'arrêté royal modifiant l'arrêté royal du 18 décembre 1986 relatif à la commission pour l'aide financière aux victimes d'actes intentionnels de violence et aux sauveteurs occasionnels en vue de l'agrément d'associations pour l'assistance aux victimes de terrorisme est actuellement soumis à l'avis du Conseil d'Etat. Via cette reconnaissance, ces associations pourront assister les victimes pendant leurs démarches devant la commission d'aide financière et pendant les auditions, ainsi que durant les phases du tribunal de l'application des peines.



## CROATIA

The Ministry of Justice cooperates with civil society organizations that provide assistance and support to victims of criminal offenses and they are also financially supported by the Ministry.

The Ministry of Health cooperates with Croatian Red Cross, in line with its humanitarian mandate and principles.

Operatives of the Red Cross are both employees and volunteers in crisis camps, intervention teams and support teams on local, regional and national level. Croatian Red Cross participates in all phases of crisis situation - from preparation to response as well as help in relief at the end of crisis, together with assisting in urgent medical care and education on medical care.



## DENMARK

The website of the Danish Prosecution service includes useful links that may be useful for victims, witnesses or relatives of a victim of a crime. Some of these links is to civil society representative's websites.

Further, the Danish police will usually guide victims etc. to the relevant civil organizations.



## ESTONIA

Currently no. This is largely due to the fact that up to this point there have fortunately been no terrorist attacks in Estonia.



## FINLAND

The Ministry of Justice has entrusted Victim Support Finland with a public service obligation to provide and produce public support services for victims of crime under the Victims Directive. The Ministry provides the funds for this activity. The services of Victim Support Finland naturally also cover victims of terrorist acts and the persons close to them. Because Victim Support Finland is a non-governmental organization, its services are low-threshold services easily approachable for victims. Victim Support Finland has no separate assistance scheme specifically for victims of terrorist acts. They are assisted and supported by the normal activities of the organisation.

In the context of terrorist acts, Victim Support Finland provides increased information about its services in order that the victims can find the services and authorities can refer them to the services. Victim Support Finland is developing its know-how on how to support victims of terrorist acts. A volunteering project funded by the Ministry of Justice will also train volunteers to act in situations of terrorism or similar more extensive situations. Authorities also aim to clarify the current contingency schemes to take the services produced by Victim Support Finland better into account.

For more information: <https://www.riku.fi/en/home/>

Finland has no association for victims of terrorist acts and no specific peer support groups for them. Huoma – The Association for Families and Friends of Homicide Victims in Finland, provides, for example, information and peer support to persons close to victims of homicide.



## FRANCE

Depuis 1981, l'aide aux victimes a été confiée par le ministère de la Justice aux associations d'aide aux victimes présentes sur l'ensemble du territoire français. Conventiennées par les cours d'appels, les associations d'aide aux victimes constituent un acteur majeur de la prise en charge des victimes d'actes de terrorisme en France. Elles proposent une offre de services gratuite et confidentielle.

Compte tenu de la menace terroriste constante sur l'ensemble du territoire national, le ministère de la Justice a sollicité le réseau France victimes afin de mettre en place dès 2016 un réseau départemental de référents pour les victimes de terrorisme dans les associations d'aide aux victimes. Formés aux spécificités de cette prise en charge, les référents sont capables de mobiliser



rapidement leurs partenaires au niveau local. En outre, ils ont également pour mission de s'intégrer au dispositif d'accueil des victimes et des familles ouvert par les préfetures, mais aussi de coordonner et/ou d'intervenir en appui dans la prise en charge sur le long terme en lien avec les autres associations d'aide aux victimes non référentes du département.

Par ailleurs, le ministère de la Justice conventionne et subventionne depuis plusieurs années des associations et fédérations nationales de victimes de terrorisme. Ces associations proposent un soutien et un accompagnement aux victimes de terrorisme ; c'est notamment le cas de l'Association française des victimes du terrorisme (AfVT) et la Fédération nationale des victimes d'attentats et d'accidents collectifs (FENVAC).



## GERMANY

As a general rule, victim assistance is within the sphere of responsibility of Germany's *Länder*. At the *Land* level, currently central structures for victim protection are being established, which are networked with the respective victim assistance organisations. Furthermore, however, the Federal Government Commissioner for the Victims and Bereaved of Terrorist Offences Committed on National Territory is in continual contact with the various actors in the area of victim protection.



## MONACO

Les services de l'Etat travaillent en étroite collaboration avec l'Association des Victimes d'Infractions Pénales (AVIP). Celle-ci est en charge de l'accompagnement juridique et psychologique des victimes d'infractions pénales, l'aide aux victimes du terrorisme rentrant dans son domaine de compétence. Elle peut non seulement prodiguer une aide d'urgence aux victimes, mais également une assistance psychologique et juridique à moyen et long terme.



## NETHERLANDS

In the Netherlands, according to the national manual (mentioned in the answer to question e 3) general mechanisms have been established. Victim Support Netherlands (*Slachtofferhulp Nederland*) plays a crucial role in this respect, as well as the National Coordinator for Security and Counterterrorism (*Nationaal Coördinator Terrorismebestrijding en Veiligheid*). In crisis situations Victim Support Netherlands cooperates with relevant organisations or groups of victims and surviving relatives.



## NORTH MACEDONIA

No.



## NORWAY

The support group after the attacks of 2011 is partly financed by a government grant of 5 mill. kroner per year, and the support group is in regular contact with the government. The Ministry of health and care services has established a service user forum, where representatives from many different patient groups meet the ministry regularly to give their views on policies being developed.



## POLAND

Such a mechanism is set up in the framework of the Victim Support Programme and the Assistance Fund for Victims and Post-penitentiary Assistance. As already indicated, the assistance from the Fund is designated also to specialised non-profit entities which do not belong to the public finance sector, including non-profit associations, foundations, organisations and institutions.

On 24 October 2018, the Minister of Justice approved the Victim Support Programme for the years 2019 - 2021. The programme is a response to the diagnosed need to introduce uniform standards of assistance to victims of crime and witnesses of crimes. The programme is to be implemented throughout Poland. The Minister of Justice has decided to announce 60 competitions in order to select entities responsible for running the assistance centres for victims. The centres will form basis of the nationwide network of assistance centres and support points for victims of crime. They are to be located in such a manner so as to avoid any "white spots" on the "help map". In each of such assistance points and centres, the victim and his/her next of kin should be able to obtain psychological, legal and material help. Assistance centres will be complemented by specialist centres dealing with the rehabilitation of victims who have suffered damage to health or centres for persons in need of special care (e.g. children and adolescents).

Non-profit entities that do not belong to the public finance sector, in particular associations, foundations and non-governmental organisations may apply for subsidies in the framework of the competitions. The process is already underway and a large part of competitions for running such centres and points for victims of crime has already been settled, thanks to which 35 regional centres, together with 187 local points assigned to them, are already in operation.

Also, the funding is growing. In 2013-2017, the amounts allocated to non-governmental organisations (through which the assistance is provided) for the assistance centres for victims did not exceed PLN 20 million annually. In 2018, it was PLN 25 million. The scale of assistance should grow in 2019 and subsequent years. In 2019, the Fund has already allocated ca. PLN 50 million to the assistance centres for victims.



## PORTUGAL

NO. As far as we know, no associations related to victims of terrorist acts exist in Portugal. However, there are mechanisms for cooperation with victim support associations – for instance victims of domestic violence –, in particular with regard to victim assistance and training with people dealing with victims.



## SPAIN

YES. From the Ministry of Home Affairs, there is a very collaborative approach towards public governance and public-private collaboration to support victims of terrorism initiatives. As examples established in Act 29/2011 of 22 September:

Article 64. Recognition of the role and the importance of associations

1. The associations and foundations of victims of terrorism contribute to promoting unity among victims, defending their interests and improving their condition, as well as promoting social awareness against terrorism and for remembrance. Therefore, their activity has the social recognition enabling Public Administrations to promote their creation and maintenance.
2. The associations and foundations of victims of terrorism are acknowledged as representatives thereof in the present Act.

Article 65. Subsidies

The General State Administration shall grant subsidies to the associations, foundations and not-for-profit entities whose object is the representation and defence of the interests of victims of terrorism, pursuant to the terms and provisions established in the implementing regulations. When establishing this subsidy system, entities having the largest number of victims shall have priority, and to this end, a procedure shall be established, with the consent of the interested parties, so that this status, as well as the assistance work carried out by the organisations on behalf of victims of terrorism, may be made public to the body responsible for granting subsidies.

In addition to that, the Boards of the two public foundations for victims of terrorism (Memorial Centre based in Vitoria and Victims of terrorism Foundation based in Madrid), include delegates from the main associations of victims who are, therefore, a part of them.



## SWEDEN

The Government has strengthened the resources for non-profit civil society organisations that support people subjected to crime – worth mentioning in this context are the victim support groups operating throughout the country.



## SWITZERLAND

Selon l'organisation dans les cantons, l'Etat collabore avec des institutions privées dans le but de soutenir les victimes d'infractions.

### 15. Has your country undertaken measures in order to attain societal recognition and remembrance of victims of terrorist attacks?



## BELGIUM

Oui. L'article 17 de la loi du 18/07/2017 précise que les victimes qui bénéficient du statut de solidarité nationale sont associées aux hommages de la Nation à leur endroit.

La Chancellerie du Premier Ministre a organisé, en collaboration avec les services du Protocole de la Chambre et du Sénat, une cérémonie d'hommage de la Nation aux victimes des attentats du 22 mars devant le Parlement fédéral le 24 mars 2016.

Deux mois après les attentats, la Chancellerie du Premier Ministre a organisé une cérémonie d'hommage en présence des familles des victimes et des blessés le 22 mai 2016 au Palais royal de Bruxelles, devant 600 invités : victimes et leurs proches, officiels, représentants des services de secours et d'intervention, ainsi que 32 jeunes. Cette cérémonie très sobre a notamment été marquée par la lecture des noms des victimes décédées, par des témoignages d'une victime et de proches ainsi que par des intermèdes musicaux.

La Chancellerie du Premier Ministre s'est chargée de l'appel à projets en vue de la conception d'un monument en mémoire des victimes d'attentats terroristes et du suivi de l'installation de l'œuvre du sculpteur Jean-Henri Compère dans le quartier européen, à la Petite rue de la Loi.

La Chancellerie du Premier Ministre a organisé une cérémonie d'hommage aux victimes le 22 mars 2017 à l'occasion du premier anniversaire des attentats. Le monument en mémoire de toutes les victimes d'attentats en Belgique et à l'étranger a été inauguré lors de cette cérémonie. Un moment de rencontre entre les victimes et leurs proches, le couple royal et des autorités du pays au Centre de presse international-Résidence Palace, a été organisé à l'initiative de la Chancellerie du Premier Ministre.

En parallèle, la Chancellerie du Premier Ministre a participé à la coordination des cérémonies qui se sont déroulées à l'aéroport de Bruxelles-National et à la station de métro Maelbeek, avec Brussels Airport Company et la STIB.

A l'occasion du deuxième anniversaire des attentats du 22 mars 2016, une journée d'hommage aux victimes d'attentats terroristes a été organisée le 22 mars 2018, en collaboration entre les associations de victimes Life4Brussels et V-Europe, le Gouvernement fédéral, Brussels Airport et la STIB. Des Hommages ont été organisés sur les lieux des attentats. Des lieux d'accueil et de rencontre étaient également accessibles aux victimes et leurs proches. Un Hommage sobre a également été rendu au Monument Petite rue de la Loi. La Chancellerie du Premier Ministre avait ensuite mis un lieu à disposition pour un moment de rencontre entre toutes les victimes d'actes de terrorisme en Belgique et à l'étranger, leurs proches et les délégations des services de secours et d'intervention.

Une Journée d'hommage est également organisée à l'occasion du troisième anniversaire des attentats du 22 mars 2016, en collaboration entre les associations de victimes, le Gouvernement fédéral, Brussels Airport et STIB et suivra le même schéma, à l'exception de l'hommage au Monument qui ne pourra pas avoir lieu cette année en raison d'un sommet européen qui rend l'accès à la Petite rue de la loi impossible.



## DENMARK

In the situation of a terrorist attack, the Danish society may establish a temporary or permanent place to commemorate the victims. The extent of the efforts is evaluated on a case by case basis.



## ESTONIA

Fortunately, there have been no terrorist attacks in Estonia.



## FINLAND

No.



## FRANCE

La France a pris différentes mesures en matière de reconnaissance, de commémorations et de mémoire des victimes d'acte de terrorisme.

- *La médaille de reconnaissance aux victimes de terrorisme*

Le décret n° 2016-949 du 12 juillet 2016 crée la médaille nationale de reconnaissance aux victimes du terrorisme, pour les actes commis à compter du 1<sup>er</sup> janvier 1974. Elle est destinée à manifester l'hommage de la Nation aux victimes d'actes terroristes commis sur le territoire national ou à l'étranger.

Toute personne, victime directe ou ayant droit de victime décédée, peut demander à ce qu'elle lui soit décernée. Les demandes sont instruites par le ministère de la Justice avant transmission au cabinet du Premier ministre et passage devant le Conseil de l'ordre de la légion d'Honneur. Un décret est ensuite publié au Journal Officiel.

Plus de 300 victimes l'ont demandée depuis le mois d'avril 2018.

- Le Comité mémoriel

A la demande du président de la République, un Comité mémoriel a été mis en place le 12 février 2018 par la ministre de la Justice. Composé de diverses personnalités (historiens, scientifiques, sociologues, philosophes, représentants des ministères) et placé sous l'égide de la Délégation interministérielle à l'aide aux victimes (DIAV), il a été chargé de réfléchir à la manière de commémorer les différents attentats terroristes dont la France a été victime.

Après avoir procédé à plus d'une vingtaine d'entretiens, notamment d'associations de victimes, et à plusieurs déplacements sur des lieux de mémoire, le Comité mémoriel a remis un rapport le 7 septembre 2018 à la ministre de la Justice. Ce rapport contient 14 recommandations et notamment la création d'un Musée-mémorial, l'inscription de la question du terrorisme dans les manuels scolaires, la proposition de fixer au 11 mars de chaque année la date anniversaire pour commémorer l'ensemble des attaques terroristes sur le sol européen et ailleurs et, enfin, l'autorisation de l'enregistrement filmé des principaux procès en matière de terrorisme.

- Le choix d'une date commune pour une cérémonie d'hommage national aux victimes de terrorisme

Il est apparu que la multiplicité des attentats, y compris ceux commis à l'étranger, exigeait que toutes les dates puissent être rappelées à l'occasion d'une commémoration annuelle dans un même élan de souvenir et de solidarité. Comme mentionné *supra*, le Comité mémoriel a proposé que soit retenue la date du 11 mars, en référence à l'attentat d'Atocha commis à Madrid en 2005 et choisie par l'Union européenne.

Début 2019, le président de la République a porté son choix sur le 11 mars. La première cérémonie d'hommage national devrait donc être organisée le 11 mars 2020.

- La mise en œuvre d'une mission de préfiguration pour la création d'un Musée-mémorial

Le Comité mémoriel a estimé dans son rapport de septembre 2018 que la façon la plus légitime de satisfaire les cinq objectifs qu'il a décrits (archiver, analyser, donner un sens politique, soigner et guérir, et transmettre) serait de créer un Musée-mémorial. Il a donc recommandé l'établissement d'une mission de préfiguration d'un Musée-mémorial dans l'optique de sa création.

Le président de la République a annoncé en septembre 2018 qu'il souhaitait la création de ce Musée-mémorial avec une triple vocation : un lieu de mémoire et de recueillement, un musée d'histoire ouvert sur l'avenir et un espace de recherche, de transmission et d'éducation pour les adultes comme pour les plus jeunes.

Dans cette optique, le Premier ministre a désigné le 4 février 2019 comme préfigurateur Henry Rousso, historien et directeur de recherches. La mission de préfiguration a pour objectifs de :

- rédiger le cahier des charges et définir le lieu d'implantation du Musée-mémorial ;
- de structurer sa conception, avec l'aide d'un comité de pilotage, en lien avec les ministres concernés, et en associant des personnalités, experts et partenaires sur les aspects pédagogique, scientifique, mémoriel et institutionnel du projet ;
- décider du statut du futur Musée et prévoir son mode de fonctionnement.



## GERMANY

The State is very aware of its special responsibility for those affected by terrorist offences. Memorial events for those affected by the attack on Breitscheidplatz in Berlin have been organised, and there is a permanent contact person at the national level who is also committed to societal recognition for the victims.



## MONACO

La Principauté, ni ses ressortissants, n'ayant été frappée par des actes terroristes, Monaco n'a pas pris de mesures pour parvenir à la reconnaissance et à la commémoration des victimes par la société.



## NETHERLANDS

Just recently, 18 March 2019, the Netherlands experienced a possible terrorist attack. Among the victims were 3 dead and 9 injured.

Five days after the attack in Utrecht, 16000 people attended a silent march. Among them were the mayor of Utrecht, the prime minister and the minister of Justice and Security.



## NORTH MACEDONIA

No.



## NORWAY

Every year since the terrorist attack 22 July 2011, there has been held a national memorial ceremony in the Government Building Complex in Oslo to remember those who were killed.

The 22 July Centre was established 22 July 2015 on the site where the attacks began, in the High-rise building in the Government Building Complex. The 22 July Centre houses an exhibition about the terrorist attack on 22 July and the ways in which the society confronted the terrorism in the period thereafter. One room alone is devoted to the 77 victims. The centre's educational programme invites school pupils and teachers, and as a learning centre it works with the mediation of memory and knowledge about the terror attacks in Oslo and on Utøya. The centre was established in near dialogue with the support group after the attacks of 2011 and the Workers' Youth League (the Labour Party's youth organisation AUF).

There will be established two national memorials after 22 July 2011, one in Oslo and one in the municipality of Hole, where Utøya is located. The national memorial in Hole is to be located at the ferry pier Utøyakaia. A temporary national memorial was opened 22 July 2018 in Oslo, located in the Government Building Complex. The permanent national memorial in Oslo will be established as part of the rebuilding of the Government Building Complex. The memorials are planned and developed in dialogue with the support group and the Workers' Youth League.



## POLAND

Many such initiatives have been taken on the central and local level, including special resolutions of the Parliament or local authorities commemorating victims of the respective terrorist attacks or minutes of silence and special declarations by the highest executive authorities.



## PORTUGAL

NO. Portugal relies on and supports the actions promoted by the European Union, namely the European Day of Remembrance of Victims of Terrorism. It should also be stated that in Portugal, the APAV - Portuguese Association for Victim Support- since 2016, has been supporting victims, relatives and friends of victims of terrorist attacks abroad through the Support Network for Relatives and Friends of Victims of Homicide (RAFAVH).





## SPAIN

YES. As an example, the following articles in Spanish Act 29/2011 of 22 September:

- The Royal Order of Civil Recognition of Victims of Terrorism is the specific recognition of the State to honour victims of terrorism, pursuant to Act 29/2011 of 22 September (art. 59 – Decorations).
- Having an institutional presence on 27 June, the Day of Remembrance and Homage to Victims of Terrorism, and on 11 March, the European Day of Remembrance of Victims of Terrorism. (Article 65. Acts of homage and recognition of victims of terrorism)

In addition to them, the Spanish Directorate General to support victims of terrorism is carrying out a programme entitled “The testimony of the victim’s voice at schools”, in order to sensitize the new generations on the effects of terrorism in victims’ lives and also to prevent radicalization.

There is also a public Foundation established by the Ministry of Home Affairs as a Memorial Centre for the Victims of Terrorism: <http://www.memorialvt.com/>

Many local and regional governments have devoted public spaces (streets, squares, public buildings, monuments and parks) to the memory of victims of terrorism too.



## SWEDEN

Yes, on the anniversary of the terror attack (7/4/2018), a remembrance ceremony was held in Stockholm to remember those who lost their lives and honour those who helped their fellow human beings.



## SWITZERLAND

La Confédération et les cantons préparent actuellement les institutions d'aide aux victimes aux cas de terrorisme. Cette préparation consiste à la prise en compte des besoins particuliers par les autorités compétentes, comme par exemple la commémoration des victimes par la société.





The effects of terrorism on the victims and their close family members require the implementation of an efficient protection policy at the national level, financial assistance to and compensation for victims, including proper societal recognition of their suffering alongside a duty to remember.

Bearing this objective in mind, the Steering Committee for Human Rights (CDDH) organised a workshop with experts in the field of protection of victims of terrorist acts, on 20 June 2019 in Strasbourg. This event, organised under the aegis of the French Presidency of the Committee of Ministers of the Council of Europe, allowed to take stock of the state of play with regard to the implementation, at the national level, of the *Revised Guidelines on the protection of victims of terrorist acts* adopted by the Committee of Ministers on 19 May 2017. The discussions reflected, in particular, on the good practices and experiences on the protection of victims of terrorist acts communicated by the member States in reply to a questionnaire of the CDDH.

This publication contains the proceedings of the workshop as well as a compilation of information received from the member States.

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