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HOW CAN THE EU AND THE MEMBER STATES BETTER HELP THE VICTIMS OF TERRORISM?

STUDY FOR THE LIBE COMMITTEE



DIRECTORATE GENERAL FOR INTERNAL POLICIES
POLICY DEPARTMENT FOR CITIZENS' RIGHTS AND
CONSTITUTIONAL AFFAIRS

CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS

How can the EU and the Member States better help victims of terrorism?

STUDY

Abstract

This study, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the LIBE Committee, presents a glimpse into the international and selected national responses to the raising global threat of terrorism and the consequent increase in victimisation. The study is based on the research conducted on legislation and policy responses to the needs of victims of terrorism in Belgium, France, Germany, Hungary, Spain and the United Kingdom. The research and findings focus on the two main EU instruments in this field: the Victims' Rights Directive and the Directive on Combating Terrorism. Based on the findings of adequacy of response to the victims' needs, the study proposes a set of recommendations for the EU and the Member States legislative and policy response to better ensure the needs of victims of terrorism are well taken care of.

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CONTENTS

LIST OF ABBREVIATIONS	5
LIST OF FIGURES	7
EXECUTIVE SUMMARY	8
1. INTRODUCTION	12
1.1. The approach	12
Background	14
Institutional framework	14
Defining the needs	15
Acknowledgments	15
1.2. The rise of terrorist threat	17
1.3. Overview of terrorist victimisation	20
2. NEEDS OF VICTIMS OF TERRORISM	22
2.1. Victims of Terrorism	22
2.2. Understanding the needs of victims of terrorism	26
2.2.1. Basic needs of all victims	26
2.2.2. Specific needs of victims of terrorism	27
2.2.2.1. Respect and recognition	28
Importance of memorials – a case study	32
2.2.3. Support	36
2.2.4. Protection	44
2.2.5. Access to justice	47
2.2.6. Compensation	50
2.2.7. Individual needs of victims of terrorism	54
2.2.7.1. Individual assessment	55
2.2.7.2. Vulnerable groups of victims	57
Support for children and youth in the aftermath of a terrorist attack – a case study	62
3. INTERNATIONAL RESPONSE TO NEEDS OF VICTIMS OF TERRORISM	64
3.1. The United Nations	66
3.2. The Organisation for Security and Cooperation in Europe	69
3.3. The Council of Europe	70
3.4. The European Union	73
4. MEMBER STATE RESPONSE TO THE NEEDS OF VICTIMS OF TERRORISM	77
4.1. Member State understanding and response to specific needs of victims of terrorism	77
4.1.1. Member States’ understanding of victims’ needs	77

4.1.2.	Member State response to specific needs of victims of terrorism	79
4.1.2.1.	Respect and recognition	79
4.1.2.2.	Member State response to need for support	81
4.1.2.3.	Member State response to need for protection	87
4.1.2.4.	Member State response to need for access to justice	88
4.1.2.5.	Member State response to need for compensation	90
4.1.2.6.	Member States response to needs of cross-border victims	95
4.1.2.7.	Member State response to specific aspects of terrorist victimisation	98
4.2.	Responding to victims' needs over time	99
	The aftermath of the Madrid bombings: Evolving needs of victims – a case study	101
4.2.1.	Planning, preparation and prevention	105
4.2.2.	Training of professionals	106
4.2.3.	Immediate response	107
4.2.4.	Managing public reactions and providing information	108
4.2.5.	Identification of victims and management of information on them	109
4.2.6.	Establish an accessible one stop shop for support services	111
4.2.7.	Provide immediate financial support to victims	111
4.2.8.	Ensure support for cross-border victims	111
4.2.9.	Long term support	112
4.2.10.	Member States' response to evolving victims' needs	114
4.3.	Post November 2015 response	115
4.3.1.	Belgium	115
2.4.2	Hungary	117
2.4.3	France	118
2.4.4	Germany	120
2.4.5	Spain	121
2.4.6	The United Kingdom	121
5.	CONCLUSIONS AND RECOMMENDATIONS	123
5.1.	Planning and Preparation	124
5.2.	Understanding and responding to Victims' needs	126
5.2.1.	Respectful treatment of Victims	127
5.2.2.	Recognition of Victims	127
5.3.	Support	130
5.4.	Protection	135
5.5.	Access to justice	136
5.6.	Compensation	138
5.7.	Cross border victims	139
	REFERENCES	141

LIST OF ABBREVIATIONS

- Afvt** Association française des Victimes de Terrorisme (FR)
- ARC** American Red Cross
- AVT** Association of Victims of Terrorism (*Asociación Víctimas del Terrorismo*) – ES
- BBK** Support for Victims and their Relatives (*Bundesamt für Bevölkerungsschutz und Katastrophenhilfe*) – DE
- CIAV** Interministerial cell for victim support (*Cellule interministérielle d'aide aux victimes*) – FR
- CoE** Council of Europe
- CODEXTER** Committee of Experts on Terrorism - CoE
- CTITF** Counter-Terrorism Implementation Task Force
- ECHR** European Convention of Human Rights
- ECtHR** European Court of Human Rights
- EIPA** European Institute of Public Administration
- EMDR** Eye movement desensitisation and reprocessing
- ETA** Basque Homeland and Liberty (*Euskadi Ta Askatasuna*) - ES
- EU** European Union
- EUGS** EU Global Strategy on Foreign and Security Policy
- FCO** Foreign and Commonwealth Office - UK
- FENVAC** National Federation of Victims of Terrorism and Collective Accidents (*Fédération Nationale des victimes d'attentats et d'accidents collectifs*) - FR
- FGTI** Guarantee funds for victims of terrorism and other violations (*Fonds de Garantie des victimes des actes de terrorisme et d'autres infractions*) – FR
- FLO** Family Liaison Officer
- GAD** Generalised anxiety disorder
- GCTF** Global Counter-Terrorism Forum
- HAC** Humanitarian Assistance Centre
- IPCR** Integrated political crisis response
- IS** Islamic State

- NOAH** Federal Government for Aftercare, Support for Victims and their Relatives (*Koordinierungsstelle Nachsorge, Opfer und Angehörigenhilfe*) – DE
- NTSB** National Transportation Safety Board
- TFEU** Treaty on the Functioning of the European Union
- ODIHR** Office for Democratic Institutions and Human Rights - OSCE
- OSCE** Organisation for Security and Cooperation in Europe
- OVC** Justice's Office for Victims of Crime
- PTSD** Post-traumatic stress disorder
- PACE** Parliamentary Assembly of the Council of Europe
- SEAV** State Secretariat for Victim Support (*Secrétariat d'État à l'Aide aux Victimes*) – FR
- TF-CBT** Trauma-Focused Cognitive Behavioural Therapy
- UK** United Kingdom
- UN** United Nations
- UNCCT** UN Counter-Terrorism Centre
- UNGA** UN General Assembly
- UNODC** United Nations Office for Drugs and Crime
- UNSG** UN Secretary General
- VSE** Victim Support Europe

LIST OF FIGURES

FIGURE 1

Terror threat level in Europe **13**

FIGURE 2

Geography of terrorism in 2015 **17**

FIGURE 3

History of terrorist victimisation in Europe **18**

FIGURE 4

Timeline of recent terrorist attacks in Europe **19**

FIGURE 5

Global overview of terrorist victimisation from 2004 to 2013 **21**

FIGURE 6

Circles of Victimisation **24**

FIGURE 7

Pyramid of victims' needs **26**

FIGURE 8

Examples of memorials **32**

FIGURE 9

Determining victim oriented intervention **100**

FIGURE 10

Phases of Disaster **113**

EXECUTIVE SUMMARY

In recent years, a number of States in the European Union have been subjected to horrific mass scale terrorist attacks as well as a series of individual attacks. While terrorism is not new to Europe, it is increasingly understood that beyond combatting terrorism and prosecuting those responsible, meeting the needs of victims is a moral responsibility for our States and societies. It is also a matter of complying with legal obligations under the EU and international law. The value of positive action for victims of terrorism goes well beyond individual benefits for the victims, encompassing economic benefits for our society as well as strengthening the resilience of our communities, in line with national and European Security Strategies. Ultimately, **the strongest message that can be sent to terrorists is that their actions, which aim at undermining human rights, democracy, and social cohesion, will only make our societies stronger.**

With this in mind, the present study examines courses of action to meet the needs of victims and the improvements that can be made. The study explores the situations in **Belgium, Hungary, France, Germany, Spain and the United Kingdom**. It looks at how these Member States have addressed victims' needs before and after 13 November 2015 (when a series of attacks were staged in Paris) up until 17 August 2017 when an attack in Barcelona was staged.

The **needs of victims of terrorism** have been the centre of many governmental and public discussions. To understand the needs of particular groups of victims, like victims of terrorism, it is important to comprehend that there are different layers thereof. A broad set of needs, which are common for all victims, fall into five main categories: respect and recognition; support; protection; access to justice; and compensation. In addition, groups like victims of terrorism will have different needs and the nature of a need may be different or exacerbated by the nature of the crime they endured. Finally, the needs of each individual victim will differ to some extent and therefore require an individualised and victim-centred approach.

The study indicates that **Member States have responded to the needs of victims of terrorism to varying levels**. Their responses appear to depend on the level of terrorist victimisation either through staged attacks in their territory or through increased exposure of their citizens to terrorist attacks abroad. The Member State action for victims of terrorism encompasses a full timeline from the preparedness and planning phase, through to immediate responses after an attack as well as the short, medium and long term.

Victims' need for **respect and recognition** reflects the need to ensure that individuals and systems treat victims in a sensitive, respectful, and fair manner. In all Member States observed, specific measures have been introduced to enhance respect for and recognition of victims, even though the definition of victim is not always present in legislation. Member States that are more exposed to terrorism have organised a number of memorials for their victims.

The need for **support** is particularly important, and in this respect, victims of terrorism need to receive support through information, emotional and psychological, financial, practical assistance and through specialist support and participation in peer support groups. With respect to this need, different instruments and mechanisms are in place in Member States, either through governmental action and institutional response or through the work of civil society and various associations of victims or their supporters.

The need for **protection** is seen as the need for physical protection, but even more as the need for protection from **secondary victimisation**. Victims of terrorism are at much greater risk of secondary victimisation, affecting victims not only in court proceedings but also in the many interactions they have with other state and non-state entities. In all Member States

observed, there are specific precautions in place regarding protection of victims in the criminal proceedings, as well as data protection regulations, which refer to victims' private lives and the prohibition of personal data sharing. Also, during criminal proceedings, courts may limit the presence at the hearing of the media or the public entirely, or at least partially if the victims' interests require so. Regarding protection from secondary victimisation in other spheres of life, there are initiatives, which aim to sensitise service providers as well as broader stakeholders (including the media), about the vulnerabilities of victims of terrorism.

In order to provide victims of terrorism with effective **access to justice**, it is necessary to empower and support them through the proceedings. Apart from providing psychological and practical help, other support to participate in proceedings includes legal aid and assistance bearing the cost of participation in proceedings, such as travel costs and costs of translation. All Member States guarantee access to justice for all, and are all bound by international human rights instruments to that effect. However, Member States also provide more specific roles to victims in proceedings, depending on their status as a victim and the type of proceedings they take part in.

Strong, efficient and victim-focused **systems of compensation** for victims of terrorism are essential to tackle the overwhelming financial impact of terrorist victimisation on the individual victims. All Member States have transposed the Compensation Directive and put into place different types of compensation for victims of terrorism. In all Member States, victims have access to emergency funds, which are either a legal right or a discretionary claim which gets granted by default. Also, in all Member States, victims have some sort of access to emergency financial aid and a special pension or other form of social benefit. In addition, victims have access to special one-off lump sums, which may be seen as an award or acknowledgement of their victimisation.

In addition to these needs, and recognising the large numbers of foreign victims affected by attacks, there are specific aspects to information provision, access to justice and long-term support that **cross border victims** experience. Moreover, **persons with previous mental health problems, women, children** as well as **members of certain ethnic, religious and/or cultural groups** may experience terrorist victimisation differently and such differences need to be addressed.

Regarding **cross-border victims of terrorism**, there are two main categories of victims: nationals of Member States victimised abroad, and foreign nationals victimised in the territory of a Member State and different types of arrangements put into place by different countries to address their specific needs.

Whilst a number of measures had already been in place before the attacks in Paris on 13 November 2015, Member States have also put in place **new laws and policies** since. The most significant changes have been made, perhaps unsurprisingly, in France and Belgium, though there have been some initiatives in all other Member States. In **Belgium**, legislative and policy changes were introduced in the areas of: needs of victims for recognition, information, commemoration, interpretation and translation, compensation, as well as foreign victims of terrorism. In **France**, legislative and policy changes were introduced in a number of areas. Importantly, in the summer of 2017, the General Secretariat for victim support (SEAV) was removed and replaced by an interministerial delegation governed by the Ministry of Justice. This change has been questioned by a number of victims' associations. In **Germany**, a new system of compensation for family members of victims of homicide was introduced in July 2017.

In addition to the Member State response, many steps have been taken at **the international and European level** to address the threat of terrorism. Much attention has been given to combating terrorism, cooperation in the field of intelligence gathering and the prevention of

terrorist attacks, as well as apprehension of those responsible for the execution and enabling of terrorism. Nonetheless, important steps have also been taken to address the needs of victims of terrorism at all policy and legislative levels.

The actions taken by States offer insights into some of the best practices as well as some of the problems. At the same time, consultations with a wide range of experts in the field have shown that a **comprehensive response covering a wide range** of departmental responsibilities and stakeholders is necessary to fully meet the needs of victims.

Whilst it is recognised that many countries are not under a high level of threat from terrorism, as with disaster preparedness, it is essential that certain **laws, policies and planning are put in place in all countries in advance of any attack**. Without this process, delays after an attack are inevitable and will cause significant additional harm to victims.

Where attacks have taken place, **long term, comprehensive response** is equally essential to meet the needs of a wide range of victims and to minimise the impact of terrorism for individuals and society alike.

The recommendations below encompass some of the main priorities when considering future measures:

Regarding **planning and preparation**, Member States should implement the EU Directive on Victims' Rights and the EU Directive on Combating Terrorism as a basis to meet victims' needs for support, information, access to justice, protection and compensation. Moreover, they should involve victim experts and victim support organisations as a part of crisis-response preparedness mechanisms and ensure that all those coming into contact with victims should receive appropriate training. States should also support proper planning and collaboration between services involved in both the immediate response as well as long-term support of victims of terrorism and plan and develop support in cooperation with victim support organisations and victim experts. In addition, information and support infrastructure such as victim assistance centres and crisis helplines must be planned in advance and be able to be deployed immediately after an attack. Research and evaluation on the needs of victims of terrorism as well as the effectiveness of interventions should be an integral part of the response.

Regarding **defining, identifying and recognising victims**, it is recommended that the Member States ensure that all victims are covered through a sufficiently broad definition of a victim of terrorism and that all victims are equally treated based on their needs and harm suffered. Member States should consider establishing a specific status for victims of terrorism which would serve as both a form of recognition and potentially to offer access to other forms of assistance. Moreover, a system of qualitative and comprehensive registration of victims should be set up, with on-the-scene collaboration followed by public campaigns and implemented to ensure there is a list of registered victims that is as exhaustive and comprehensive as possible. Finally, Member States need to ensure that victims are included in the process of designing any memorials or other events.

With respect to **informing victims**, the need (and the right) of victims of terrorism to information needs to be ensured immediately after an attack, and for as long as it takes. Measures should be in place to identify possible victims and pass them to specifically trained professionals, while victims should receive information from a reliable source as soon as possible and be supported by professionals during and after the attack. Information should be simple and easy to understand, with the needs of different groups such as children, persons with disabilities and foreign victims being taken into account.

When addressing the **need of victims for support**, Member States should have in place, or be able to set up quickly, free and specialised support for victims of terrorism whether

through specific organisation or more generic support organisations. Support for victims of terrorism should be comprehensive and cover the following needs: 1) emotional and psychological; 2) practical; 3) advice on compensation; 4) vocational or educational; 5) access to justice; 6) medical. A range of support services should be made available to victims, including specialist care and therapies. Services should be provided in the immediate aftermath and in the long term. Support should be offered proactively and be made available for as long as needed. It should be based on an individual needs assessment to ensure it is targeted and relevant to the individual needs of the victim. Assistance to support givers and those in contact with the victims of terrorism should be made available to avoid vicarious trauma.

To ensure protection, victims of terrorism need to be protected from both **physical victimisation and secondary victimisation** by public institutions, private actors and the media. States should implement assessments of victims of terrorist attacks to identify the vulnerabilities and potential physical protection and support measures they need both related to and outside of the criminal proceedings. To avoid secondary victimisation, all who are in contact with victims should be trained in respectful, victim-oriented treatment. Victims of terrorism can face a high administrative burden in their contacts. Measures should be implemented to reduce this burden and to assist the completion of such tasks. Insensitive reporting of terrorism immediately after an attack and in the long term can be highly traumatising for victims. The media and government should establish codes of practice, self-regulation and ethics codes specifically relevant to reporting on victims.

Systems to **access justice** should be as accessible as possible, hence reducing the need for legal assistance and representation. A range of support measures to facilitate participation should be implemented and governments should plan for and adapt large-scale trials to ensure that all victims wishing to participate are able to do so, no matter where they come from.

Compensation schemes should be run in a victim-oriented way, have simple and accessible procedures that lead to financial restitution covering much of the direct harm caused. To ensure a non-discriminatory approach to victims of terrorism, compensation schemes should be made accessible for all victims, regardless of their residence status. Procedures should facilitate victims to apply and receive compensation in a timely and appropriate manner.

Cross-border victims face the full range of problems as do national victims of terrorism, but also face an added layer of complexity. These problems can be addressed for example by establishing procedural rules to account for the specific needs of cross-border victims. Support systems need to be set up in a way to ensure that cross-border victims are continuously and systematically accounted for and provided with support in their country while staying in touch with support providers in the country where the attack took place. Information provision initiatives should also be tailored to reach foreign victims ideally in a language they know.

1. INTRODUCTION

KEY FINDINGS

- In the past years, Europe has been witnessing a change in the level and type of threat posed by terrorism, which is increasingly aiming the unsuspecting public in indiscriminate attacks.
- Approaching the fight against terrorism from the victims' rights perspective is a matter of legal obligation and social responsibility.
- Direct victims are not the only victims of terrorism. There are also indirect victims, like direct victim's relatives, eyewitnesses and first responders, or even broader communities.
- Caring for victims of terrorism is a weapon in the fight against it. By looking after the victims and ensuring that their needs are met, a message is sent to terrorists that the values that they fight against – e.g. human rights and democracy, grow stronger under an attack.

Terrorism in all its forms and manifestations is one of the most serious threats to peace and security. Acts of terrorism are criminal and unjustifiable, regardless of where or when they are committed and who commits them¹. The consequences of terrorism are far-reaching. Terrorism may cause the markets to drop, consumer spending to decline, air travel to plummet and public opinions towards governments to shift².

1.1. The approach

The present study, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the LIBE Committee, is the result of a joint effort of the European Institute of Public Administration (EIPA) and Victim Support Europe (VSE).

The study is prepared under the premise that terrorist attacks which took place in several locations in Paris on 13 November 2015 created momentum for improvement from Member States and EU policies regarding the needs of victims of terrorism.

The first step in the methodology is, therefore, to identify the needs of victims. This identification is followed by the description of how the two main EU instruments relevant for victims of terrorism: The Victims' Rights Directive and the Directive on Combatting Terrorism, address those needs (if at all), and how those needs are addressed through legislation, policy and practice of Member States. Finally, legislative and policy interventions in the Member States are identified, to serve as a base for identifying the response of Member States following the Paris attacks and facilitate answering the principal question – how can the EU and Member States better help the victims of terrorism.

Understanding victims' needs reflects, to varying extents, on the States' laws and policies. As mentioned above, in the 1950's the idea about the need to ensure compensation for victims of crimes first sprang in civil society and academia, and then gradually took root in the State structures and at the international level. Depending on the specific circumstances

¹ UN Security Council Resolution 2253(2015), available at:

http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2253%282015%29

² Lerner J.S., Gonzalez R.M., Small D.A. and Fischhoff B., *Effects of Fear and Anger on Perceived Risks of Terrorism – A national field experiment*, 2003, available at:

<http://courses.washington.edu/pbafhall/514/514%20Readings/emotion-and-terrorism%20risk.pdf>

of each country, State responses to the needs of victims in general and victims of terrorism in particular vary and resonate to the needs of victims in varying degrees.

State responses to the needs of victims of terrorism depend on several factors, one of which is the exposure of a State to terrorist threat. While none of the European countries make it in the ten most threatened by terrorism³, the 142 dead and 379 injured in 142 attacks in Europe in 2016 remind us that the threat is real. However, as the map below shows, its level varies across Europe⁴.

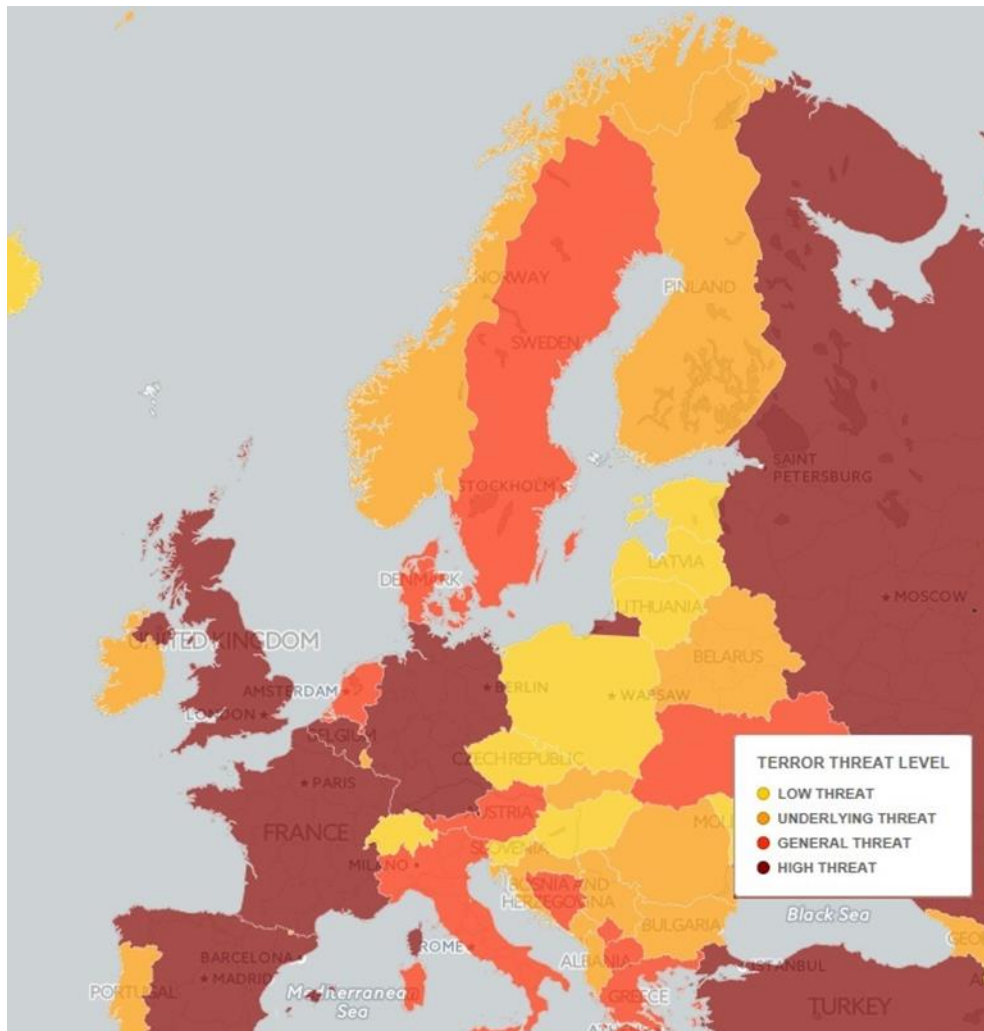


Figure 1– Terror threat level in Europe

³ The Forbes, *Top ten countries most affected by terrorism*, 18 November 2016, available at: <https://www.forbes.com/sites/dominicdudley/2016/11/18/countries-most-affected-by-terrorism/#7b30dcd130d9>.

⁴ Map credit of Telegraph, available at: https://telegraphtravel.carto.com/viz/b3716a1a-1f00-11e5-ad49-0e43f3deba5a/public_map and based on the travel advice provided by the UK Foreign Office in 2015. Travel advice available at: <https://www.gov.uk/foreign-travel-advice>.

Another factor, which will also significantly drive State policies, is the number of nationals who become victims of terrorism, given the increasingly globalised nature of the threat⁵.

Naturally, a number of other factors will also drive these policies, including the broader foreign and domestic policies, austerity, and notably, at least in some Member States, the response to the migrant crisis.

Having run a preliminary analysis of the situation in all the 28 Member States, it has become obvious that in a large number of these states, due to the relatively weak presence of any of the above-mentioned factors, policies or legislation have not figured highly on their domestic or international legislative and policy agenda. Out of the states in which interventions have been recorded, the following were selected to be examined by the present study: Belgium, France, Germany, Hungary, Spain and the United Kingdom. All countries, apart from Hungary, appeared to be countries with a history of terrorist victimisation, either on domestic soil or abroad, and their policy and legislative agenda appeared to have been defined therewith. In Hungary, on the contrary, there has been no significant history of such terrorist victimisation. Nonetheless, some changes in policies and legislation appeared to have been justified by the growing terrorist threat, which indicated that the response would merit examination and comparing with the situation of Member States with a different background.

The present section will look into how the selected Member States responded to the terrorist attacks in Paris of November 2015, and what legislative and policy interventions were introduced to ensure that the needs of victims are better catered. To that end, firstly, the section will look into the situation prior to the November 2015 attack, and into the changes in legislation and policies that were introduced after that time.

Background

In addition to the guarantees from national legislations, all six States have ratified a number of international instruments which aim to improve the position of victims of crimes in general, and victims of terrorism in particular. Generally, with the exception of the UK, there is little public debate about these policies in the observed countries. In the UK, however, there has been a significant debate about the ratification of some of these international instruments, some of it stemming from the concerns raised from the inadequate support to victims of terrorism⁶.

Institutional framework

Out of six countries observed, two are federal states: Germany and Belgium, while the United Kingdom is a devolved state. In those states, there is an expectation that the competence to ensure needs of victims are divided between the different levels of government. The remaining three: France, Hungary and Spain adopt centralised policies and legislation.

In Belgium, the driver of victim policy is the National Forum for Victim Policy. Initially, the policy focus was on de-radicalisation and counter-terrorism. However, following the attacks in March 2016, policy focus has shifted towards victims of terrorism.

⁵ There is no precise data as to the number of foreign victims in each EU country. However, the information that VSE has gathered shows that in the major terrorist incidents in Europe since 2015, the majority of victims were foreigners.

⁶ At ratification of the CoE Convention on the Prevention of Terrorism, concerns were raised by the British Irish Rights Watch that victims of terrorism in Northern Ireland have not been adequately supported and that this experience had not been taken into consideration during ratification. In addition, other concerns were raised regarding the insufficient guarantees for cross-border victims to receive adequate support. Nonetheless, the Convention was ratified in 2008.

In Germany, plenty is being done in the area of counter-terrorism, the central government's focus for the past several years. However, a specific victim-centred approach is not obviously present in this regard. Nonetheless, some specific interventions are ensured, when it is felt to be needed. Hence, for example, in the wake of the attack on a Christmas market in Berlin in December 2016, the Government appointed a special commissioner.

In Spain, there is a general national framework and strategy on victims of terrorism. There is also a specialised Governmental body - the Directorate-General for Support to Victims of Terrorism.

In the UK, the Government's counter-terrorism strategy, known as Contest, is founded on four pillars, one of which is aimed at enhancing UK's resilience though seeking to reduce the harm caused to survivors by ensuring, for example, that emergency services are able to respond properly.

State-wide policies relative to victims of crime or victims of terrorism are not put in place in Hungary.

Defining the needs

The current study has been prepared on the premise that the terrorist attacks which took place in several locations in Paris in November 2015 created momentum for improvement in Member States and EU policies regarding the needs of victims of terrorism.

The first step in the methodology is, therefore, to identify the needs of victims. Victims' needs are identified based on the approach taken by the Victims' Rights Directive and the recognition of the five basic groups of victims' needs, namely respect and recognition; support; protection; access to justice; and compensation.

This was complemented by the identification of certain horizontal issues, such as the specific issues of cross-border victims, as well as some other specific aspects of victims' needs, as they can be conditioned by the victim's prior trauma and mental health issues, gender, young age, as well as by cultural differences.

In the description of specific rights, and the identification of the elements thereto, the study was inspired by the structure of the publication 'Victims of Terrorism: Towards European Standards for Assistance - Literature Review,' by Ines Staiger, Antony Pemberton, Karin Ammerlaan and Rianne Letschert. This structure was complemented and adjusted in accordance with Victim Support Europe's own experience of supporting victims in the unfortunately growing number of terrorist attacks, as well as from the experience shared by VSE members in the past almost thirty years.

This identification was followed by the description of how the two main EU instruments relative to the victims: the Victims' Rights Directive and the Directive on Combatting Terrorism, address those needs (if at all), and how those needs are addressed through legislation, policy and practice of Member States. Finally, legislative and policy interventions in the Member States were identified, to serve as a base for identifying the response of Member States following the Paris attacks and facilitate answering the principal question - how can the EU and Member States better support the victims of terrorism.

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- 'International Symposium on Victims of Terrorism', organised by International Framework for Dialogue and Information Sharing 16 May 2017
- 'Victims of Crime: Rights, Needs & Responses', 'Annual Conference of Victim Support Europe, Dublin, 17-18 May 2017
- 'International Seminar on the Specific and Comprehensive Assistance to Victims of Terrorism in Europe,' organised by Asociación Víctimas del Terrorismo (Association of Victims of Terrorism, AVT), Madrid, 8 and 9 June 2017.

1.2. The rise of terrorist threat

Terrorism is not a new phenomenon, nor is it an invention of the 21st century, and it has been known before 9/11 and used as one of the important tools in conflicts around the globe since Roman times. However, the scale of these attacks and the response continues to be felt to the present day⁷. As the new millennium begun, a coordinated action at three locations in the United States claimed the lives of 3,000 persons and left 6,000 injured. It remains until the present day the worst terrorist attack in history. The 9/11 attacks ultimately led to far-reaching changes in anti-terror approaches and operations not only in the U.S. but around the globe⁸, and it may also be said, to the change of the nature of the terrorist threat in Europe.

While the perception of fear from terrorism is undeniable and certainly occupies a significant portion of public policy discussion and action in both Europe and the U.S., the most significant terrorist threat is elsewhere. Namely, the majority of terrorist attacks in 2015 took place in the Middle East, Africa and Asia.

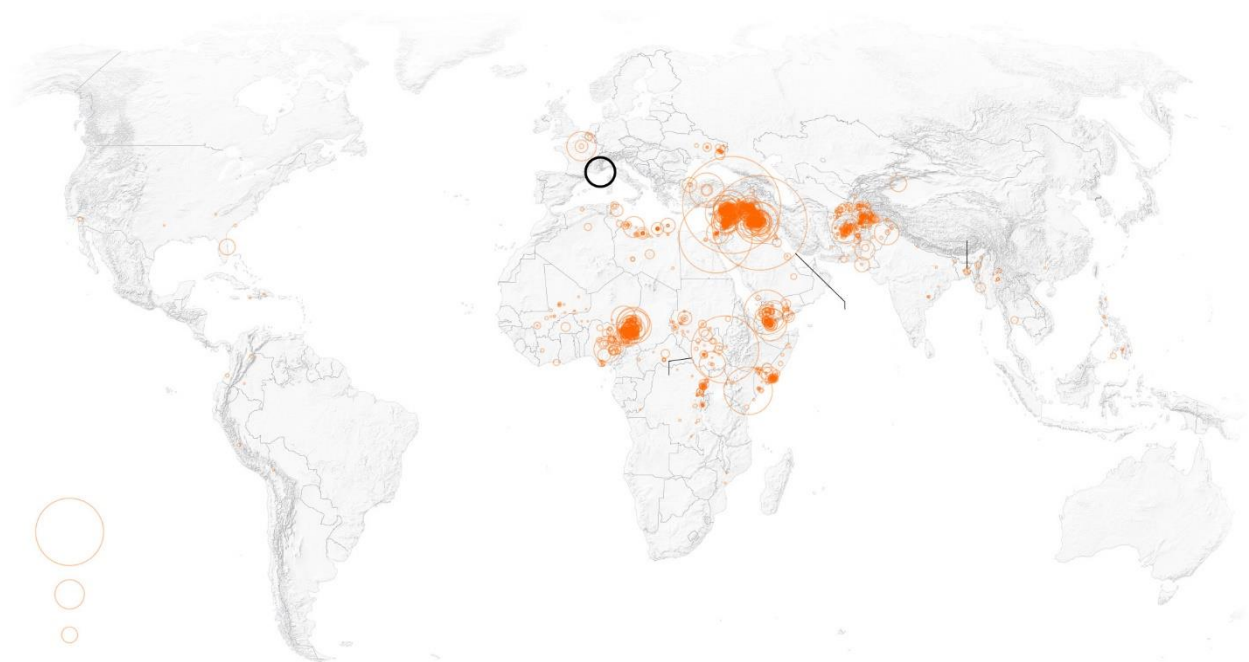


Figure 2– Geography of terrorism in 2015⁹

⁷ The US President George W. Bush declared war on terror, which ultimately resulted in the still ongoing US military intervention in Afghanistan, but also in interventions in Iraq, Syria, the Horn of Africa, the Philippines and several other locations. Until June 2017, 4,841 deaths of coalition forces in Iraq and 3,535 in Afghanistan have been recorded. In the same time, some reports estimate that, up until 2015, the total number of casualties on the 'enemy side' in Afghanistan, Iraq and Pakistan alone was 1.3 million people. See e.g. IPPNW Germany, *PSR and PGS: Body count – Casualty figures after 10 years of the "War on terror"*, first international edition, March 2015, p. 15, available at:

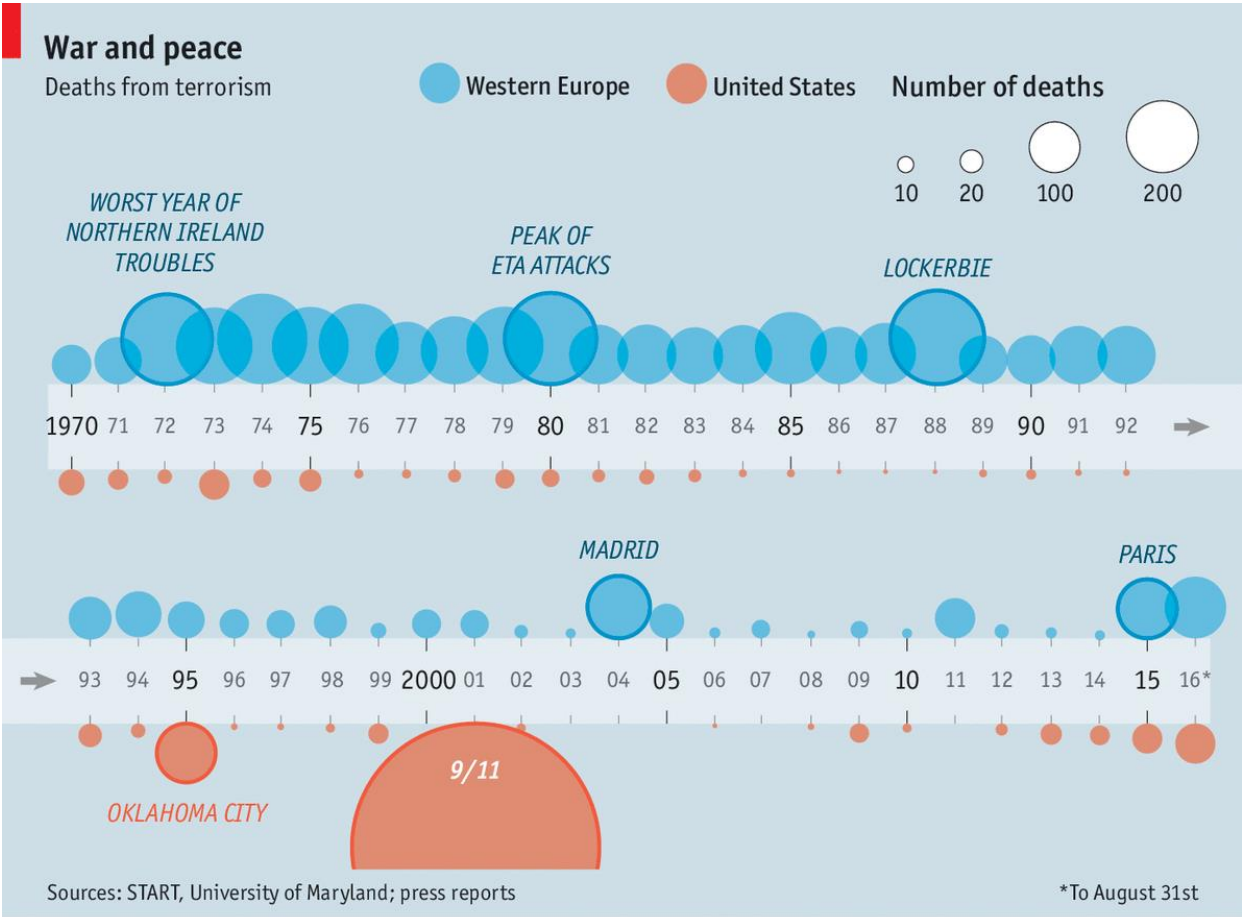
https://www.ippnw.de/commonFiles/pdfs/Frieden/Body_Count_first_international_edition_2015_final.pdf

⁸ United States Federal Bureau of Investigation (FBI), *9/11 Investigation*, available at: <https://www.fbi.gov/history/famous-cases/911-investigation>

⁹ Terrorist attacks with at least five non-militant deaths since Jan. 1, 2015, The Washington Post: *How terrorism in the West compares to terrorism everywhere else*, available at: <https://www.washingtonpost.com/graphics/world/the-scale-of-terrorist-attacks-around-the-world/>

Moreover, while jihadists’ terrorism may be prevailing worldwide at the present moment, historically it is quite a recent category, with a relatively small presence in the history of European terrorism.

Namely, from the 1970s to the '90s, Western Europe saw a rise in nationalism-inspired terrorist attacks from groups such as the Provisional Irish Republican Army in Northern Ireland and Basque Homeland and Freedom, otherwise known as the ETA, in the Basque Country in northern Spain¹⁰. As a matter of fact, such terrorist threats appear to have been more prominent in Europe before 9/11 than they are today, both in terms of the number of attacks and the number of casualties.



Economist.com

Figure 3 – History of terrorist victimisation in Europe¹¹

¹⁰ The Washington Post, *45 years of terrorist attacks in Europe, visualized*, 19 December 2016, available at: <https://www.washingtonpost.com/graphics/world/a-history-of-terrorism-in-europe/>

¹¹ The Economist, *Terrorism: Learning to live with it*, 3 September 2016, available at: <http://www.economist.com/news/international/21706250-people-are-surprisingly-good-coping-repeated-terrorist-attacks-america-and>

Following a relatively calm period, interrupted by the attack in Madrid in 2004, between 2009-2013 there were 1010 failed, foiled or completed attacks carried out in EU member states, in which 38 people died¹².

Nevertheless, in recent years the overall threat to the security of the European Union has increased and remains on an upward trajectory¹³. Moreover, the nature of the terrorist threat and the exposure to terrorist victimisation is evolving. 20th century terrorism, while violent and more frequent, largely targeted victims for personal affiliations: police officers, military, prison guards. Exceptionally, such attacks would collaterally victimise also those officials' families¹⁴. Other times, victims would be targeted for their personal refusal to cooperate with terrorist organisations (e.g. businessmen who refused to pay the so-called revolutionary tax to ETA, or former members who tried to free themselves from their affiliation with the organisations). When attacks had the potential of threatening the broader population, the terrorist organisations often alerted them, to control the damage, in some way. The days of bomb alerts, however, seem to be long gone.

While in the past, terrorists were more likely to be dominated by pragmatic considerations of political and social change, public opinion, and other such factors, nowadays, a phenomenon that was previously an exception – terrorists bent on death and destruction for its own sake – is more commonplace than ever¹⁵.

Currently the EU is facing a range of terrorist threats and attacks: from networked groups to lone actors; attacks directed by the so-called Islamic State (IS) and those inspired by them; the use of explosives and automatic rifles as well as bladed weapons and vehicles; and carefully prepared attacks alongside those that seem to be carried out spontaneously. The so-called Islamic State has proven to be highly effective in inspiring people to commit terrorist acts and in setting attacks in motion themselves¹⁶. At the same time, the IS is indirectly inspiring 'revenge' strikes against the Islamic community, as has been seen in a recent attack in Finsbury Park (London), for example.

The attacks on Charlie Hebdo in Paris in January 2015 marked the start of an era of a new type of terrorist threat in Europe. Since then, there have been more than 15 attacks in Europe, with the most recent one taking place in Barcelona on 17 August 2017.

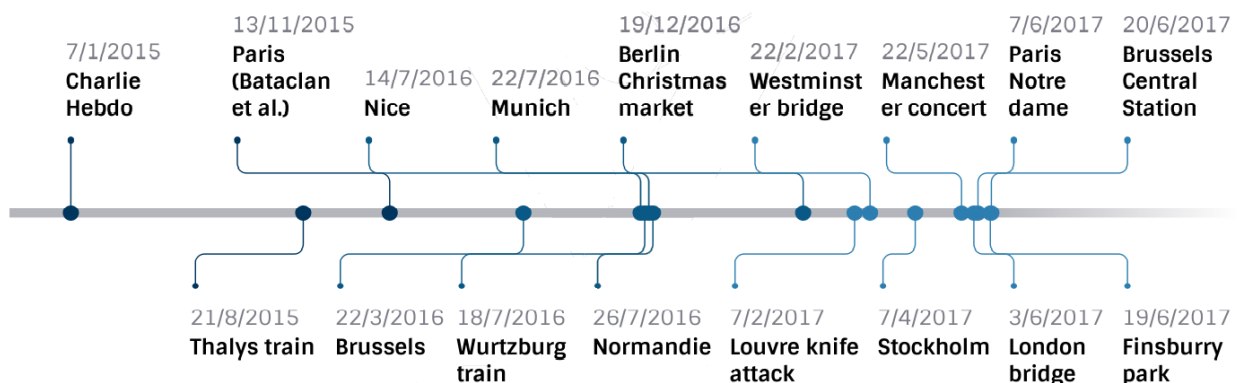


Figure 4 – Timeline of recent terrorist attacks in Europe

¹² European Council, *EU fight against terrorism*, available at: <http://www.consilium.europa.eu/en/policies/fight-against-terrorism/>

1.3. Overview of terrorist victimisation

Previously, victims of terrorism were, at least in some way and to a certain extent, predictable. Judges, politicians and police officers, or more generally, members of the enemy group were primary targets of terrorist attacks. As of recently, however, victims of terrorism are increasingly belonging to the groups that terrorists themselves represent. Hence, the majority of terrorist attacks of Islamic terrorism occur in predominantly Muslim countries, and consequently the majority of victims are Muslims¹⁷.

Traditionally, the concept of international security has been equated with the use of force between states. However, since the 1980s, this picture has changed with respect to who should be secured, what they should be secured against and how they should be secured¹⁸. While terrorism is certainly not a new phenomenon, the terrorist attacks on the World Trade Center and the Pentagon in September 2001 brought it to the spotlight in the United States and many other countries.

While the entire *modus operandi* of terrorism is based on unpredictability and installing fear through (seemingly) random acts of violence, until 9/11 there was at least an illusion of avoidability from terrorism, by avoiding susceptible locations, like Northern Ireland or South Africa, or by staying out of certain professions, like working for judicial or prosecutorial authorities in southern Italy.

However, attacks increasingly focus on activities in our ordinary lives – concerts, football matches, restaurants, bars, metros and train stations, or simply walking down a busy street. In the 1970s, airplanes and airports were frequent targets. With the increase in security measures, they are less and less so. In 2015, a decrease of 60% in attacks on airplanes and airports was recorded, but other means of transportation have become more frequent targets of attack¹⁹.

¹³ Europol, *EU Terrorism Situation and Trend Report (TE-SAT) 2016*, p. 6, available at: https://www.europol.europa.eu/sites/default/files/documents/europol_tesat_2016.pdf

¹⁴ For example, some ETA attacks to military locations affected families of officers who had been staying on the grounds.

¹⁵ Morgan M. J., *The Origins of the New Terrorism*, Defense Technical Information Center, 2004, available at: <http://www.dtic.mil/docs/citations/ADA597084>.

¹⁶ Europol, *Islamic State changing terror tactics to maintain threat in Europe*, December 2016, available at: <https://www.europol.europa.eu/newsroom/news/islamic-state-changing-terror-tactics-to-maintain-threat-in-europe>

¹⁷ See figure 2.

¹⁸ St. Jean C. E., *The Changing Nature of International Security: the Need for an Integrated Definition*, *Paterson Review*, vol. 8, (2007):22., as per Mahdi Mohammad Nia, *From Old to New Terrorism: The Changing Nature of International Security*, *Globality Studies Journal*, 2010, available at: <https://gsj.stonybrook.edu/wp-content/uploads/2010/06/0018Nia.pdf>

¹⁹ US Department of State, *Annex of Statistical Information Country Reports on Terrorism 2015*, available at: <https://www.state.gov/documents/organization/257738.pdf>

9/11 has remained an outlier both for its carnage and for its wider impact. Since then, Western security and intelligence services have become increasingly effective in disrupting complex plots. Civil airlines have become dauntingly tough targets, albeit at enormous cost in money and travellers' convenience²⁰. Heavily armed soldiers patrolling European cities have become a part of everyday life and France has been under state of emergency since November 2015, suspending some important human rights protections²¹.

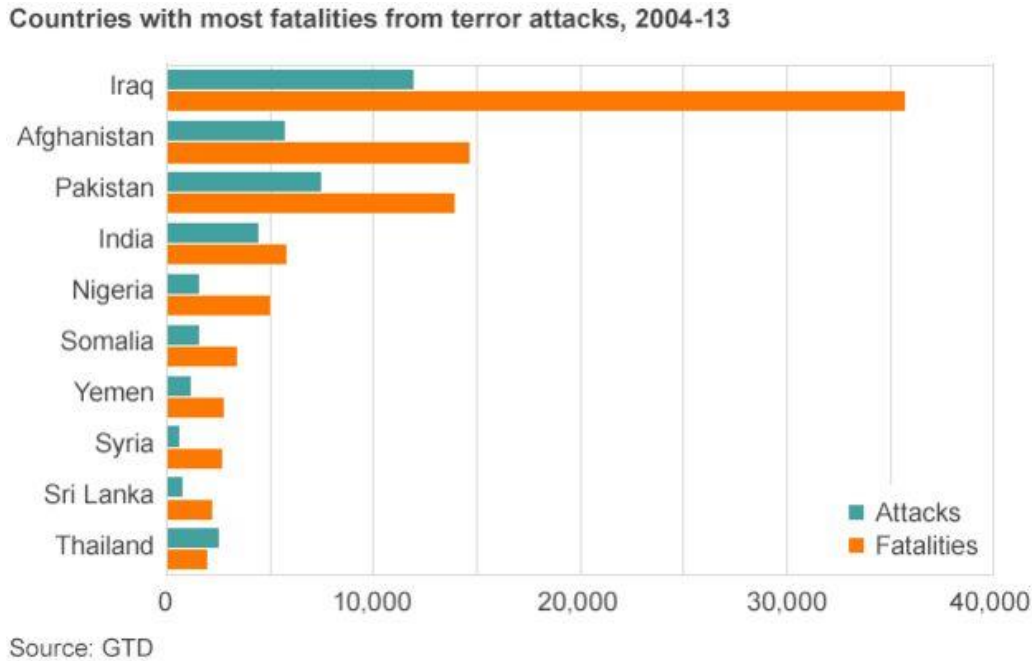


Figure 5 – Global overview of terrorist victimisation from 2004 to 2013

Similarly, recent research has shown that since 2007, the vast majority of victims from Northern Irish republican terrorists were Catholic²². At the same time, in the attacks for which IS has claimed responsibility in Europe, Muslims have often been the victims.

But, more broadly, entire communities, even entire states, have been victimised by terrorism.

²⁰ The Economist, *Terrorism: Learning to live with it*, 3 September 2016, available at: <http://www.economist.com/news/international/21706250-people-are-surprisingly-good-coping-repeated-terrorist-attacks-america-and>

²¹ Since the attacks on November 2015, France has kept in force a derogation from Article 15 of the European Convention on Human Rights, in relation to the state of emergency introduced in the wake of the attacks. See Declaration of 24 November 2015 and subsequent declarations informing the Council of Europe of the continued state of emergency at: <http://www.coe.int/en/web/conventions/search-on-treaties/-/conventions/treaty/005/declarations>.

²² The Guardian, *Irish dissident groups learning from Taliban and Isis, police officer warns*, January 2015, available at: <https://www.theguardian.com/uk-news/2015/jan/18/irish-dissident-groups-ira-learning-taliban-isis-police-officer>

2. NEEDS OF VICTIMS OF TERRORISM

KEY FINDINGS

- Terrorism has a wide impact across circles of victimisation. Besides the harm caused to the individual present during the attack, family members, first responders and the community at large can also bear the consequences of an attack.
- While victims of terrorism have many needs in common with other victims of crime, they do have specific needs that require specialised support to respond to those needs.
- The most important needs of victims of terrorism are: the need for respect and recognition, need for support (through information, emotional and psychological support, practical support, specialist support and participation in peer support groups), need for protection (physical protection, protection from secondary victimisation and victimisation through the media), access to justice and the right to receive compensation from the Member State.
- Often terrorism incites a ripple effect of violence leading to an increase in hate crime and revenge attacks. Prompt and effective response and timely approach is required to prevent and protect.
- Victims' needs are evolving over time and will depend on many personal and environmental factors. Flexible and broad understanding of a victim and their circumstances ensures better understanding of their needs.

2.1. Victims of Terrorism

Victims of terrorism are often not the primary focus in the response to terrorism. More often than not, terrorism incites increased governmental efforts in security, law enforcement and counter-radicalisation. The former UN Secretary General Ban Ki-Moon refers to victims of terrorism as the real heroes in the global struggle against terrorism²³. Caring for victims of terrorism is also a very powerful weapon in the fight against it. By looking after the victims and ensuring that their needs are met, a message is sent to terrorists that the societal and community values they fight against, like human rights and democracy, grow stronger under attack. They pay the price of daily politics in their lives or lifelong suffering, by being at the right place – where they should be – airplane, train or Christmas market, at the wrong time. According to EU legislation, all victims of crime should be recognised and treated in a respectful, sensitive and professional manner without discrimination of any kind²⁴. This is particularly important with regards to victims of terrorism, given that they are, as the Directive acknowledges, victims of 'attacks that are intended ultimately to harm society'. Ensuring that victims of terrorism are acknowledged and that they receive all the support they need is a matter of legal obligation and social responsibility. From a legal point of view, the EU Victims' Rights Directive acknowledges that crime is 'a wrong against society as well as a violation of the individual rights of victims'.

In developing a comprehensive and effective victim-oriented response framework for terrorist attacks, the notion of who is a victim should be defined. Current international instruments vary in their approach. The starting point of the definition of a victim should be whether they

²³ Ban Ki-moon, Secretary General of the United Nations, in United Nations, *Supporting Victims of Terrorism*, available at: http://www.un.org/en/terrorism/ctitf/pdfs/un_report_supporting_victims_terrorism.pdf

²⁴ Victims' Rights Directive, preamble, para 9.

suffered direct harm from the attack. The Victims' Rights Directive defines a victim as a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence.

The EU Directive also recognises family members of a person whose death was directly caused by a criminal offence and who have suffered harm because of that person's death²⁵ as being victims. The Counter-Terrorism Directive reaffirmed this definition²⁶. The UN Basic Principles go even further than this, recognising as victims 'the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimisation.'

Following the attacks in Paris in November 2015, the Belgian Government ordered a lockdown, which included closing down schools. This lockdown inevitably affected a wide part of the Brussels population from the older to the youngest, from individuals to businesses.

Other definitions like those put forward in the United Nations Report on the promotion and protection of human rights and fundamental freedoms uphold a more restrictive approach. This report classifies victims of terrorism in four main categories, namely direct victims, secondary victims, indirect victims and potential victims. By doing so, it risks creating a

hierarchical approach that does not necessarily take psychological, financial and/or physical harm into account. Applying criteria like 'serious harm' to define who is a direct victim risks excluding those harmed but not deemed to be harmed enough. Moreover, it excludes those who are financially harmed by an attack – whether directly or indirectly. This could include direct victims who have lost personal property through to businesses which have been damaged in an attack or who have lost business for example due to a lockdown or through customers' fears after an attack. A comprehensive approach to victims of terrorism requires the acknowledgement of the diverse ways in which an individual or community can be harmed – from physical, psychological, social, financial, vocational, practical etc. Recognising these different forms of harm and the complex interplay between them on both individuals and society at large is the starting point of an appropriate and effective response to victims of terrorism.

Of course, whilst a broad notion of a victim is needed as a starting point, different definitions may apply for different objectives or in different fields. Thus, the definition of a victim of terrorism is likely to be much more restrictive for the purposes of compensation than for support.

Importantly definitions at International, European and national level, will tend to vary depending on the extent of the obligations imposed on States and the objectives sought. Thus, discussions regarding expansion of the definition of a victim under the Victims Directive were drawn out due to concerns over how it would affect Member States' criminal justice systems and the standing of parties in criminal proceedings. This was a necessary debate given the strict implementation requirements of EU Directives. Definitions are primarily designed for criminal proceedings, but when considering victims of terrorism for support, compensation or information provision, Member States are allowed to and should go beyond the Directives.

After the Brussels attacks, the Belgian federal and local governments saw the severity of the situation for tourism and the economy. They offered a range of financial support measures with the Brussels government alone offering at least €27 million of support.

²⁵ Article 2 of the Directive.

²⁶ Counter-Terrorism Directive, preamble, paragraph 27.

However, when designing an overarching policy, which cuts across a range of needs, actions, policy and legal areas, a much broader understanding of victims is required. The starting point is the recognition of harm and the impact this has on the individual, groups and society more generally. This can refer to victims' families (also when the direct victims have survived the attack), first responders, eyewitnesses, and the local and wider community (which can include members of the community from which the attackers come) etc. Terrorism is aimed at terrorising not only the individuals present but also the broader community or society. To understand the impact of terrorism on individuals and society, a socio-ecological model of the circles of victimisation offers a useful framework²⁷. This framework is widely used to analyse the impact of a traumatic event on an individual and society as well as the potential risk and protective factors that can be found in a social environment.

More than 28,000 people were victims of terrorist attacks worldwide in 2015 alone²⁸. But, terrorism not only affects individuals who are directly victimised. It takes a toll on their families and friends, as well as affecting broader social circles and entire communities, crossing borders and cultures, finally leaving a mark on the society we live in.

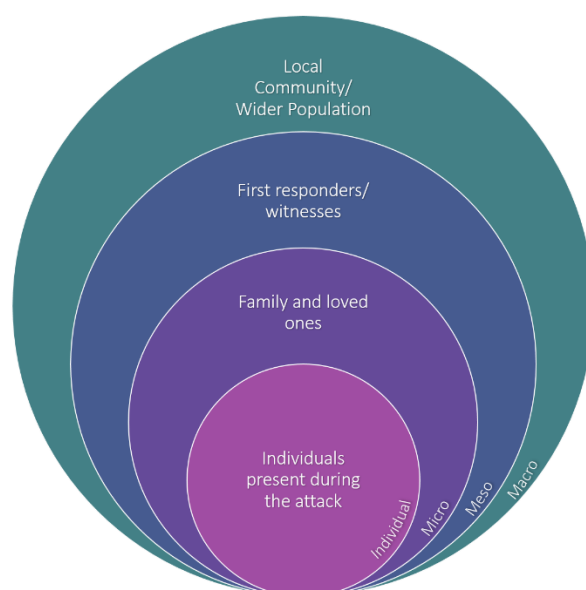


Figure 6- Circles of Victimization

The inner circle of victimisation points to the individual who was directly affected by the terrorist attack, present at the scene. As described earlier, the harm caused in the individual can be of varying nature – psychological, physical, financial, practical, social etc.

A second circle of impact is referred to in socio-ecological terms as the micro level and includes the close informal social network in the individual's close social environment, like family, friends, or peers.

Thirdly, the meso-circle refers to another social layer around the individual that was directly harmed. This circle includes individuals who are part of the formal support network around individual victims such as first responders, victim support workers, or other professionals

²⁷ Bronfenbrenner, U. (1979). *The ecology of human development: Experiments by nature and design*. Cambridge, MA: Harvard University Press.

²⁸ US Department of State, *National Consortium for the Study of Terrorism and Responses to Terrorism: Annex of Statistical Information on Terrorism 2015*, available at: <https://www.state.gov/j/ct/rls/crt/2015/257526.htm>

taking up a support role in the wake of an attack. Accidental responders, eyewitnesses or helpers constitute this circle of victimisation.

During the attacks in Brussels, in March 2016, a young woman was waiting for the metro at the next station. Even though she suffered no physical harm, and the trauma she has gone through prevented her from partaking in many activities she previously enjoyed. She was not granted the status of a victim, as her suffering was only seen as too remote to qualify her as a victim.

The widest macro-circle points at a wider society in which the individual victim is embedded. Even in the larger population, the impact of terrorism can be observed. In the aftermath of the 9/11 attacks, for example, it was estimated that the prevalence of probable post-traumatic stress disorder (PTSD) of persons living in the New York City metropolitan area was almost three times higher than the national prevalence estimate²⁹. The psychological burden in the general population is higher after a terrorist attack than after a natural disaster³⁰.

Furthermore, recent studies and reports underline the ripple effect of violence and terrorism on society. In the wake of terrorist attacks, there is a substantial increase of hate crime and hate speech against different groups. Research in the past years shows how hate incidents against Muslims in the UK have risen significantly after each terrorist attack not only in the UK but also in the rest of the world³¹. These attacks range from hate speech online, revenge attacks, targeted property crimes or hate crime against minority groups. Whilst these attacks tend to focus on minorities that can in one way or another be linked to the 'group' the attacks claim to represent, an increase in hate incidents are found towards a wide range of minority groups. For example, an increase in hate crime against the Jewish community and refugees has been recorded in the aftermath of terrorist attacks. Thus, the larger community faces the consequences of terrorism either directly or indirectly by the ripple effect of violence.

Ever widening circles of impact can be envisaged spreading in time and distance from the attack itself outwards. While generally individuals in the middle circles might have more risk to develop consequences of the terrorist attack, the impact is not necessarily gradual over the circles of impact (See figure 6). Some first responders can face more extensive physical or psychological victims that were more directly involved. Moreover, psychological studies show that the impact on the wider social network or society is potentially as influential as the impact on the individual victim that was present at the time of the attack.

Most governments and organisations however lean towards a response focused on the first and second circles. Whilst it is the case that there tends to be a greater impact in the individual or the close social network, nonetheless there is a considerable number of victims in the wider circles that are in need for support. The need for information moreover is there for all groups and individuals in society. The intrinsic aim behind terrorist attacks is to strike a limited number of victims and so as an intrinsic aim to hurt the society at large. Whilst some governments tend to publicly react to terrorist attacks by promoting civilians to 'keep calm and carry on' this response should be complemented by a recognition and vigilance for

²⁹ Schlenger W. E., Caddell J. M., Ebert L. et al, *Psychological Reactions to Terrorist Attacks – Findings from the National Study of Americans' Reactions to September 11*, August 2002, available at: <http://jamanetwork.com/journals/jama/fullarticle/195165>

³⁰ Goldfrank, L. R., Panzer, A. M., & Butler, A. S. (Eds.), *Preparing for the psychological consequences of terrorism: A public health strategy*. National Academies Press, 2003

³¹ Øyvind Strømme, *Hating Muslims: Anti-Muslim hate crimes and terrorism, 2010-2014*, Hate Speech International 2015, available at: www.hate-speech.org/hating-muslims-a-report-from-hsi/ and Faith Matters, *The geography of anti-Muslim hatred*, Tell MAMA Annual Report 2015, available at: https://www.tellmamauk.org/wp-content/uploads/pdf/tell_mama_2015_annual_report.pdf

the fear, social or psychological problems that the general population might develop in the wake of an attack.

2.2. Understanding the needs of victims of terrorism

The needs of victims of terrorism have been the centre of many governmental and public discussions. To understand the needs of particular groups of victims, like victims of terrorism, it is important to comprehend that there are different layers of needs. A broad set of needs are common to all types of victims of crime. In addition, groups like victims of terrorism will have different needs or the nature of a need may be different or exacerbated by the nature of the crime they endured. Furthermore, needs of victims of terrorism are different for each individual and require an individualised victim-centred approach. A basic way of visualising the needs of victims of terrorism is through a pyramid approach.

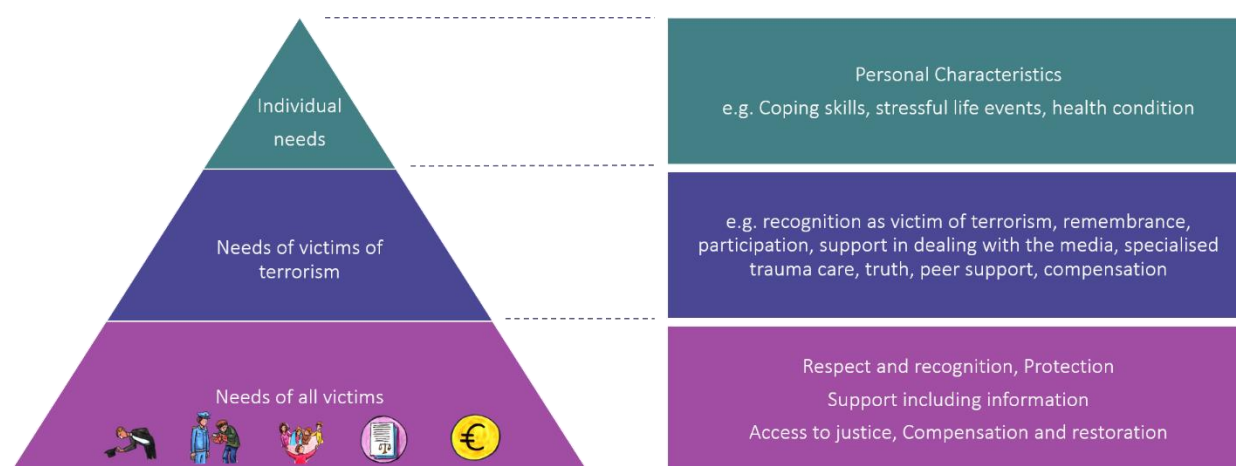


Figure 7– Pyramid of victims' needs

2.2.1. Basic needs of all victims

The foundation of the pyramid is built up by five categories of needs which broadly speaking are applicable to all victims of crime. These five basic needs also constitute the foundation for the EU Victims' Rights Directive and offer a framework for the large variety of needs and required response for people that fall victim to a crime.

The first, and most fundamental need for the victim is **recognition**. It is widely agreed that victims need to be recognised as victims and need their suffering to be acknowledged. Victims also need to be treated with dignity and respect in all communications with police or investigating authorities, legal professionals, judicial staff and other involved in the judicial process. Respectful treatment is particularly important for vulnerable victims like children or victims of terrorism.

Victims have a range of **protection** needs. They need to be protected from further criminal acts by the offender, supporters of the offender or from new crimes. The victim also needs to be protected from secondary victimisation through behaviours and attitudes of social service providers or government officials that are "victim-blaming" or insensitive. To avoid harm caused by, for instance, repeated and insensitive interviewing or having to face the offender in court, it is important to ensure protection of victims throughout criminal

investigations and court proceedings. This protection is essential for particularly vulnerable victims such as children.

Support, including the provision of information, is fundamental to victims' recovery and their understanding of the entire system. Victims often require help from a number of avenues; these can relate to emotional, psychological, financial, legal or practical support. The provision of early support can help to prevent bigger (and possibly more expensive) problems that victims may face in the future. Victims often need longer-term support, including (and depending on the severity of the crime) help with training to commence new employment or help moving home (particularly relevant to victims of stalking or domestic violence).

Victims' need for **access to justice** can be summarised as wanting to see justice is done (outcome focus/distributive justice) and wanting to be confident about how it is achieved (procedural justice). It can cover a wide variety of issues, such as accessibility of court processes, availability of adequate legal representation in criminal trials, access to more informal legal processes (such as penal mediation) and the right to review a decision on whether or not to prosecute the offender. Victims need to get full access to and be able to participate in the justice system, which encompasses the right to be heard and requires at a minimum that they are made aware of crucial decisions and key dates.

International and EU legislation and guidelines are clear that victims of violent crime should receive financial **compensation**. Besides financial compensation by the offender or the State, financial restitution can be achieved through a range of measures. Wider restitution can incorporate redress through restorative justice processes, for example.

2.2.2. Specific needs of victims of terrorism

A second layer of needs relates to the needs that are specific to victims of terrorism. For the most part, the needs of direct victims of terrorism are similar to those of other victims of crime, differing not in kind but rather in degree or in possibilities for implementation. On average, the impact of terrorism in a financial, psychological and physical sense may be larger, but definitely not always. Often terrorist victims will require immediate medical and financial assistance, but this will be the case for some victims of crime as well. Similarly, victims of terrorism, like victims of crime, will need to be treated respectfully and provided with information about any participation in their case. Both will need reassurance for their safety, and to come to terms with feelings of anxiety and anger they are likely to experience after the event³².

These specific needs of victims of terrorism provide an important argument for a specialised response to support victims of terrorism. Different groups of victims will have specific needs and specific responses will be necessary for them. Thus, for example victims of certain types of crimes, such as gender-based violence, human trafficking, terrorism or homicide may have specific needs which are either different to the five basic needs, or more often they may have special requirements within the five basic needs. Their needs can be different not only in kind of needs but also in degree. These specific needs underwrite the importance of understanding the specific needs of each group of victims to ensure every victim is supported, informed, compensated, and protected in the way they need to be. Nonetheless, despite universal solidarity with the plight of victims and survivors of terrorism, surprisingly few countries have

³² Letschert R., Staiger I. and Pemberton A. (Eds.), *Assisting Victims of Terrorism – Towards a European Standard of Justice*, 2008, p. 13, available at: https://www.researchgate.net/profile/Rianne_Letschert/publication/226102113_Compensation_and_Reparation_for_Victims_of_Terrorism/links/5693fbd208aeab58a9a2c7ce.pdf.

put into place appropriate measures and structures to support immediate, let alone longer-term needs of survivors and victims' families³³.

A few key characteristics of terrorist attacks influence the specific needs of victims of terrorism.

Firstly, terrorism aims to harm individuals as representatives of the larger society, the state or values. Victims are attacked as symbols of the state, which is reflected in the social and psychological impact in the individual victim.

Secondly, while the majority of crimes will leave a mark on victims, the impact is largely limited to immediate family members, rarely to first responders and only exceptionally on the broader community. This broader impact will usually happen in particularly serious instances, or for example when victims are public or important figures. Research confirms the protective factor of social support in the psychosocial well-being of an individual that lived through a traumatic event. However, in the case of a terrorist attack, individuals and professionals in a social environment are impacted as well and sometimes not able to provide support to the victims as they would to victims of other types of crime.

Thirdly, terrorism leaves chaos in its wake, often providing challenges to first responders as well as causing daily life to take a halt. After the Brussels attacks, the city went in lockdown for a few days, preventing life to return back to normal in the city, while shops, restaurants, schools and administrative buildings were being shut down. This is uncharacteristic for most other types of crime, yet strongly affects individual victims of terrorism.

Fourth, terrorism and its victims become an immediate news story, with victims unwillingly at the centre of attention. More violent attacks will attract more attention, but seemingly victimless and failed incidents related to terrorism get broadly reported and have the potential to victimise³⁴.

Acknowledging the basic needs of every victim of crime, the present study is looking into the specific needs of victims of terrorism, as a specific group, and looks into how the national and international instances have responded to those needs, in view of the raising terrorist threat in 21st century Europe. Below you can find the identified specific needs of victims of terrorism and the ways in which the above-mentioned Member States are recognising and responding to those needs.

2.2.2.1. Respect and recognition

One of the most important needs voiced by victims of terrorism is **recognition**. As for other victims, victims of terrorism need to be recognised as victims. After a terrorist attack, however, the need for recognition is looked at from additional perspectives as well. Unlike other violent crimes, victims of terrorism are attacked as a symbol of the state and society, thus imposing a greater responsibility on the State to address the caused harm. The fact that victims feel targeted as a symbol affects their perception of the crime and the psychosocial rehabilitation process. Moreover, since they are not attacked personally but randomly, they

³³ Global Center on Cooperative Security, *Strengthening Support to Victims of Terrorism*, September 2014, available at: <http://www.globalcenter.org/wp-content/uploads/2014/10/19-Sept-2014-GCTF-Victims-project-description.pdf>

³⁴ Hence, the recent failed attack at the Central Station in Brussels caused a significant amount of public disturbance, even though there were no direct victims.

feel reduced to the status of victims for public display. **Acknowledgment** may extend beyond the criminal justice system and is particularly important for victims of terrorism, who often see themselves as public victims. Social acknowledgment in general is important to victims, with victims' recovery being connected to the 'victim's experience of positive reactions from society that show appreciation for the victim's unique state and acknowledge the victim's current difficult situation³⁵.'

The reaction of the public, the media, and politicians' public statements are important mechanisms for recognising victims of terrorism as well as acknowledging their status as victims and the harm caused. For example, whether or not you may approve of the policy in general, the robust French military response two days after the 2015 attacks was one way of demonstrating solidarity with the victims.

Another forum for acknowledgement of victims of crimes in general and victims of terrorism in particular is within court proceedings. This acknowledgement may be reflected in a formal recognition of a victim status through, for example, their involvement in criminal proceedings.

To ensure respect and recognition, the first necessary step is to ensure an appropriate and comprehensive definition of victims of terrorism, as discussed in section 2.1 above.

a. A victims' statute

Some Member States offer victims of terrorism an official letter acknowledging them as victims of terrorism. This mechanism allows for a rather fast yet symbolically very valuable form of recognition. The French state indeed sent a letter to all victims of the terrorist attacks within a very short time period. Victims of different attacks expressed the personal value of this letter to them. In addition, this letter offers a form of recognition and acknowledgement that can be of particular importance for the victims. Furthermore, this statute of victim of terrorism can allow for Member States and organisations to offer specific services and support measures. In Belgium, the statute for victims of terrorism will not only form an acknowledgement but a condition to receive a recovery pension and other forms of support. Non-governmental organisations which provide some types of victim support, carry such services without the need to report the crime or have an official statute as a victim – in line with the EU Victims Directive.

b. Participation

The **need to participate** is not only limited to the participation in the criminal, civil or administrative proceedings that a victim might be involved in as a party (and which should always remain as an option in relation to the realisation of victims' rights). It is also important that victims are enabled to participate in any policy or legislative initiative, where their voices are recognised and where it is made sure that victims and their views and needs are represented in the drafting process.

³⁵ Maercker A. and Muller J., *Social Acknowledgment as a Victim or Survivor: A Scale to Measure a Recovery Factor of PTSD*, 2004, available at: https://www.researchgate.net/publication/8252120_Social_acknowledgment_as_a_victim_or_survivor_A_scale_to_measure_a_recovery_factor_of_PTSD

This participation cannot be reduced to bare formal involvement of victims. Victims need to be involved in a timely and genuinely participatory manner, in order to ensure that any outcomes properly reflect their views³⁶. This is essential as the crime itself is a highly disempowering event. A core aspect of supporting recovery is to help victims feel they are in control. For this reason, participation and control over that participation can be very beneficial – if managed properly. To the contrary, where victims feel ignored in the process, the system is further victimising them. The need for participation in the criminal justice system is similarly complex as it is for victims of other severe crimes, being an important need and an additional burden in the same time.

The position of cross-border victims – especially those who return to their home countries is even more difficult. Not only are they easily forgotten or not contacted, but even when this does happen, their distance from the events needs to be taken into account. Thus, a two-days' notice to attend an event in person is too short a notice for many foreign victims. In addition, costs of participation may be prohibitively high and either funding assistance may be needed or alternative long-distance participation facilitated e.g. through video-links or through assistance to the victim from the government of the victim's residence.

In addition to cross-border issues, in instances of mass victimisation, practical concerns may make participation more difficult, and special measures may be necessary to ensure that victims feel they have been sufficiently acknowledged in the trial procedure. Participation may also relate to non-criminal justice features. For example, some victims choose to establish their own peer support or advocacy groups, or play a role in other supporting activities³⁷. Many often express they do not want others to go through what they went through – including poor treatment after the attack. This work is often empowering for the victims involved.

c. Commemoration and memorials

Finally, respect and recognition are also paid to victims of terrorism through the organisation of **commemorative events and by setting up memorials**. Memorial services and memorial sites are particularly significant for victims of terrorism as it partly shows national solidarity with people who were victims of an attack against the State, society or values. In addition, it creates a physical space where victims can come together to commemorate their individual loss with those in society. For a better understanding of the importance of remembrance and commemoration, see the case study below.

Commemoration and showing respect for victims have been, for a long time, the objects of spontaneous gatherings in the places where an attack took place. However, with the growth of modern communications, commemoration and remembrance have now also become a matter of social media. Organised commemorations and/or remembrance initiatives are also instances where people pay respect to the victims and recognise the damages they incur. Furthermore, remembrance and commemoration initiatives are seen as matters of international courtesy and tools for diplomacy. Understood as such, these initiatives have been taking place in all countries observed for the purpose of the study. Hence, many instances of commemoration also involve embassies, ministries of foreign affairs and participation of foreign dignitaries. In all countries observed in the study, different forms of

³⁶ In this regard, the early evaluation of the Belgian Parliamentary Committee's recommendations of 3 May 2017 have already been criticised for the lack of genuine participation and the resulting inadequacy of the response.

³⁷ Letschert R., Staiger I., Pemberton A. (eds.), *Assisting Victims of Terrorism: Towards a European Standard of Justice*

commemoration and remembrance were taking place. Some have suggested that an annual event of remembrance taking place on a date that is unrelated to a specific attack is the best commemorative approach.

Another important form of commemoration is memorials. Memorials are usually made in the form of a monument or specific artistic installation that is usually displayed permanently in a public place, as a form of recognition.

SPONTANEOUS MEMORIALS

Importance of memorials – a case study

Remembering and honouring victims of terrorism is an inherent element in the healing process of victims, their families and society at large. Symbols and rituals express and demonstrate the impact of sudden tragedies and attacks on society. There are different ways of classifying memorials for victims of terrorism: 1) Memorials honouring victims of terrorism such as spontaneous memorials, days of remembrance and physical memorials; 2) Secondary forms of memorialisation such as peer support groups, statements of the governments on victims of terrorism as well as commissions of enquiry into terrorist events³⁸.

This case study goes into Memorials honouring victims of terrorism, both spontaneous and formal as well as physical memorials and days of remembrance. Examples of existing memorials and days of remembrance offer guidelines for planning, preparing and delivering memorials.



Figure 8– Examples of memorials

A commonly known form of remembering victims of terrorism and demonstrating the impact of terrorist attacks on the larger community are the spontaneous, unplanned memorials that take place the first hours and days after a tragedy. These individual and collective rituals permit the expression of grief while bringing communities together to come to terms with the tragedy³⁹. Current examples reaffirm the existing anthropological view that rituals in the aftermath of disaster enable social groups to look for social balance and share morale (Malinowski, 1948). Public places linked to the attack transform in public memorials where people lay flowers, bring balloons, teddy bears or written messages in support of those killed or injured. Mourners and victims come to reflect and share their sorrow after the tragedies.

After the Nice Attacks, hundreds of flowers, objects and messages were brought to the Promenade des Anglais after the dreadful attack of 14 July 2016. For months, the spontaneous memorial brought victims and people of the community to share their grief and sorrow, their messages of compassion at the place where the attack happened. In February of 2017, the city of Nice collected the objects in 150 boxes to be cleaned, archived, photographed and kept in the city archives. The victims of the Association Promenade des Anglais expressed their sadness by not having these tokens of memories in the open anymore, reminding them of their loss and the support received from strangers⁴⁰. The city of Manchester hosted a similar spontaneous memorial after the Manchester Bombings in May 2017. The Mayor expressed his conviction that the 'sea of flowers' which covered the square would remain until their loved ones say otherwise⁴¹. Schools in Brussels were invited to hold a ritual of transition when the objects, flowers and messages for the victims of the Brussels

³⁸ Egbo R., *Memorializing the Victims of Terrorism*. Research and Statistics Division. Department of Justice Research Report cat no. J3-2/2009-6E-PDF, 2009.

³⁹ Eyre A., *In remembrance: post-disaster rituals and symbols*, Australian Journal of Emergency Management, 14(3), 23, 1999.

⁴⁰ Paris Match, *Nice archive les hommages aux victimes de l'attentat du 14 juillet* (in French only), 9 February 2017, available at:

<http://www.parismatch.com/Actu/Societe/Nice-archive-les-objets-laissees-en-hommage-aux-victimes-de-l-attentat-du-14-juillet-1185083>

⁴¹ Manchester Evening News, *Sea of flowers in St Ann's Square will stay for as long as families want, councillor says*, 31 May 2017, available at: <http://www.manchestereveningnews.co.uk/news/gr eater-manchester-news/sea-flowers-st-anns-square-13116514>

attacks were removed from one of the main squares two months after the attack⁴².

Governments and officials clearly have a role to play in supporting these spontaneous memorials. Ensuring the safety of visitors and victims of these spontaneous memorials is very important, especially in the aftermath of terrorist attacks where society has been attacked in its freedom and sense of security. Furthermore, honouring communities and victims by respecting the spontaneous memorials for the time they are needed forms an important contribution to social healing processes.

DAYS OF REMEMBRANCE

Formal days of remembrance usually take place both some weeks after the terrorist event as well as on the anniversaries of the attacks. Therapist Jelena Watkins, whose brother lost his life in the 9/11 attacks, states that these "communal rituals create a physical, emotional and spiritual atmosphere that facilitates the mourning process in a healthy way"⁴³. Days of remembrance can have a variety of functions, from remembering the victims, to providing public and state-based recognition of the victims' experience⁴⁴, to making a statement of political defiance. However, in order to ensure days of remembrance are indeed healing and positive for both victims and the community, it is imperative that they are planned, organised and conducted in a sensitive way and in continuous consultation with those affected. A wealth of international experiences lay bare some of the challenges and negative consequences that the planning and organisation of these days of remembrance can have. These challenges offer important guidelines for governments during the organisation of memorialisation events.

Inviting participants to attend the event requires careful planning and consultation. First, it is important to identify as many victims as possible (i.e. injured, witnesses, families of the deceased) to be invited to the day of remembrance. Collaboration with the victims' association and institutions as well as making use of the community's social, administrative or religious resources are some ways to reach all victims. Governments

unsurprisingly point to the difficulties related to limited registration of victims in open disasters as well as privacy regulations in reaching out to victims. However, these challenges are some of the predictable challenges in the aftermath of terrorist attacks and can be overcome with adapted legislation, consultation with victims' associations, flexibility of the government and proper registration immediately and sometime after the attack. Commemorations in France (2015) and Belgium (2016) were criticised because only a small seemingly arbitrary selection was made of injured victims to attend the first commemorations. Good planning and collaboration can ensure that invitees are invited well in advance of the event and that they receive information on the nature and organisation of the event to help them decide whether or not to attend. Responders to the terrorist attack are an important group to invite to the remembrance events as they can be strongly impacted, yet are often overlooked. The opportunity of meeting aid-workers, victim supporters and fellow-victims can be a decisive factor in victims' willingness to participate.

The aim should be to invite all victims and all responders, even those who will not be able to attend due to injuries or geographical distance. Financial reasons should not weigh in on a victim's decision on whether or not to attend anniversaries. Some governments, like the US and France, take the responsibility for covering the costs of foreign victims to attend remembrance day. Anniversary events following terrorist attacks should include measures that allow those who cannot physically attend these events to follow the ceremony through audio-visual means or live-stream.

Secondly, the non-political, non-partisan nature of a commemorative event is primordial to create a supportive environment for the victims. Watkins⁴⁵ refers to a national memorial service for victims of a disaster in the UK. "Front row seats were allocated to many national and local VIPs, leaving the relatives of the victims to be seated at the back. Survivors were not invited, causing great distress for many of those directly affected." During the MH17 plane crash anniversary event, the politicians were seated on the side while the families of

⁴² Het Laatste Nieuws, *Herdenkingstapijt van bloemen en kaarsen op Beursplein opgeruimd* (in Dutch only), 20 May 2016, available at: <http://www.hln.be/hln/nl/36484/Aanslagen-Brussel/article/detail/2709654/2016/05/20/Herdenkingstapijt-van-bloemen-en-kaarsen-op-Beursplein-opgeruimd.dhtml>

⁴³ Watkins J., *The value of disaster memorials and rituals*, Mental Health Today, 2012, available at: <https://www.mentalhealthtoday.co.uk/the-value-of-disaster-memorials-and-rituals>

⁴⁴ Egbo R., *Memorializing the Victims of Terrorism*.

⁴⁵ Watkins J., *The value of disaster memorials and rituals*, Mental Health Today, 2012.

the deceased victims were in the front rows. It is also important to note that for some victims it is important to get the opportunity to talk to and be listened by politicians or VIPs. The meeting with the King and Queen of Belgium was an important moment of recognition by the government for many victims after the attacks in Brussels. An openness to all religions is also important to organise an inclusive event. The anniversary events in Canada after the Air India Bombing consequently included speakers from all major religions, giving them the opportunity to say a word or prayer.

Victims often express their worries about their safety and protection at the event, especially when the event takes place soon after the tragedy. Protection is required both from any potential security threat or terrorist attack as well as from the media. Terrorist events and related events in its aftermath of such events elicit large and often international media attention. Protecting the victims by making clear agreements and setting strict guidelines for the media covering the event should be a priority in the organisational stage. Most days of remembrance, like the first anniversary of the Paris Attacks, consist of a public part with clear rules for the media, and a private part for the victims where the media is not allowed. In Paris, clear rules were set up for journalists that prevented them from taking close-up images of victims or do intrusive interviews. In the run-up to the one-year anniversary for victims of the Brussels attack, many were clear they wanted the day to revolve around the victims with little or no presence from the media.

The psychological and social impact of anniversary events for victims and responders cannot be underestimated. Victims need emotional support before, during and after the events to get through the anniversary. The aftermath of the first anniversary event can have a particular emotional strain on victims of terrorism. During the anniversary event of the Paris attacks, victim-support providers were clearly identifiable at the scene to provide support for the victims.

The key factor contributing to the success of these days of remembrance is the timely consultation and true involvement of victims in the whole process of organising the event⁴⁶. The event should be about the victims and their families, and involvement of the victims and victims' associations in the planning of the event decreases risk of negative experiences whilst increasing the possibility to reach victims to invite, reflect and honour victims' perspectives in the programme, support victims to find togetherness and healing in the event.

PHYSICAL MEMORIALS

The establishment of physical memorials have been a commonly used response to terrorist attacks⁴⁷. Memorials fulfil an important role in enabling people to mourn and celebrate those who died, as well as mark the memory of the victims in the public memory⁴⁸. Psychologically, memorials can help victims to cope with the trauma and deal with their feelings of guilt and responsibility⁴⁹. From a community and societal perspective, physical memorials can have complementary functions in the aftermath of terrorism, namely 1) strengthen trust in the government and state; 2) a forum where people can connect with each other; 3) places of mourning and 4) opportunities of learning⁵⁰.

Whilst physical memorials can constitute a positive factor in the collective and individual healing after a terrorist attack, in some cases, memorials can also have negative social consequences. One of the most challenging elements of establishing a physical memorial is the large number of stakeholders involved in the process. From victims, families, victims' associations, victim-support professionals, to city officials, different levels of federal and regional governments, politicians, city planners, architects and many others, they are all affected and involved in establishing a physical memorial⁵¹. In most cases, the involvement of that many stakeholders leads to discussions and controversy, even within groups. Nonetheless, involvement of victims

⁴⁶ Interviews and inquiries Victims' Associations and governmental victim support V-Europe (BE), Air India Victims Families Association (CA), Life for Paris (FR), Slachtofferhulp Nederland (NL), Weisser Ring (DE)

⁴⁷ Gough P., *Contested Memories: Contested Sites: Newfoundland and its Unique Heritage on the Western Front*, *The Round Table* 96 (2007): 693. Retrieved August 11, 2008, from Informaworld database.

⁴⁸ Foot K., Warnick B., Schneider S.M., *Web-based Memorializing After September 11: Toward a Conceptual Framework*, *Journal of Computer Mediated Communication*, 11: 72, 2006.

⁴⁹ Oliner M., *The Externalization Function of Memorials*, *The Psychoanalytic Review*, 93: 883, 2006.

⁵⁰ Zittoun T., *Memorials and Semiotic Dynamics*, *Culture & Psychology* 10: 477, 2004.

⁵¹ Egbo R., *Memorializing the Victims of Terrorism*.

and the community is primordial to facilitate individual and collective healing. Sociologist Anne Eyre stresses the importance of owning and controlling remembrance: "The involvement of communities in the establishment of permanent memorials is a move towards the increasing empowerment of those affected by disaster." Eyre adds that control and ownership of remembrance activities enables individuals and communities to "take control of their own recovery." Collaboration therefore is key throughout the development of a memorial. Whilst designing and planning for a physical memorial builds on a lot of goodwill and voluntary efforts, also victims consulted should be facilitated to participate in these discussions. The Canadian government ensured travel expenses were paid for victims to attend the planning meetings⁵². The acknowledgement that disagreement and discussion are an inherent and predictable challenge in the memorialisation process does not offer an excuse to avoid consultation, but should encourage policy makers and associations to take time and effort to find consensus in the design and building of the memorial. While smaller or temporary memorials are set up after terrorist attacks around the world, the average time before the final memorial site is open to the public is about four to five years. Long-term and comprehensive planning is needed, as maintenance and costs often constitute (predictable) challenges in the memorialisation process⁵³. After the MH17 Aviation Disaster, government, victims' associations and other professionals went through a long process of designing and building the memorial. The costs of the design were covered by generous donations and funding by the government. After two years however, budgetary problems arose because of the decreasing funding and donations that could no longer cover the maintenance of the monument⁵⁴. Similar problems arose with the memorial erected

after the Madrid bombings, where repairs of parts of the monument were repeatedly postponed and local governments disputed over payments to cover the costs⁵⁵. Air India bombings in Canada were memorialised in physical memorials around the country. The administrative complexity and budgetary implications of designing and maintaining these memorials became clearer as the years had passed. "In the beginning, we were not aware of the extent of the implications of putting a bench on the memorial site – it is not that simple you don't just budget for a bench, you have to make sure that for the next decades that bench is cleaned, repaired, maintained, and that has considerable budget implications" the victims⁵⁶ association acknowledged. The upkeep and maintenance of memorial sites can be costly but should not be ignored, as they symbolise the ongoing memory and commitment of the state towards its victims. In addition, the decision regarding the memorial's location should be carefully made in accordance with different stakeholders. It should be a site easily accessible to all victims (including victims with disabilities), and should offer a quiet space for mourning, remembrance and learning.

Memorials are designed spaces of symbolism and shared meanings. Individual stories and testimonies are an important part of many memorial sites, physical memorials or museums. They allow the memorial to become a place of mourning or honouring of the victims. At the 9/11 Memorial in New York, the names of each victim are engraved. On each individual victims' birthday, a flower is placed under their name by the September 11 memorial⁵⁷. Designing those symbolic elements and rituals with the victims and victims' associations permits them to be perceived as meaningful and healing.

⁵² Interview Susheel Gupta, Air India Victims' Families Association

⁵³ Egbo R., *Memorializing the Victims of Terrorism*.

⁵⁴ <http://www.nhnieuws.nl/nieuws/202413/Financiele-problemen-monument-MH17>

⁵⁵ El Pais, *El monumento al 11-M, hundido por la pelea entre administraciones* (in Spanish only), 19 November 2015, available at: http://ccaa.elpais.com/ccaa/2015/11/18/madrid/1447876948_546161.html

⁵⁶ Interview Susheel Gupta, Air India Victims Families Association

⁵⁷ NBC New York, *9/11 Memorial Remembers Victims' Birthdays With Roses in Their Names*, 19 July 2013, available at:

<http://www.nbcnewyork.com/news/local/911-Memorial-WTC-Victims-Birthdays-Flowers-September-11--216020301.html>

2.2.3. Support

To be able to cope with the trauma of terrorism, the loss of a loved one or, more generally, with the consequences of a terrorist act, victims of terrorism will need a broad range of support services. This need is recognised by both the Victims' Rights Directive and the Combatting Terrorism Directive.

The Victims' Rights Directive, in Article 8, stipulates that support services must be confidential, free of charge, and act in the interest of the victims before, during and, for an appropriate time, after criminal proceedings. Support services are also made available to family members, in accordance with their needs and the degree of harm suffered as a result of a terrorist act. Member States have an obligation to facilitate referral by the competent authorities to the victim-support services. The provision of support cannot be conditioned by the submission of a formal criminal complaint to the competent authorities.

Article 9 of the Victims' Rights Directive defines the minimum support that needs to be provided:

- information, advice and support relevant to the rights of victims including on accessing national compensation schemes for criminal injuries, and on their role in criminal proceedings, including preparation for attendance at the trial;
- information about or direct referral to any relevant specialist support services in place;
- emotional and, where available, psychological support;
- advice relating to financial and practical issues arising from the crime;
- unless otherwise provided by other public or private services, advice relating to the risk and prevention of secondary and repeat victimisation, intimidation and retaliation.

There is also a requirement to provide a minimum specialist support:

- shelters or any other appropriate interim accommodations for victims in need of a safe place due to an imminent risk of secondary and repeat victimisation, of intimidation and of retaliation;
- targeted and integrated support for victims with specific needs, including trauma support and counselling.

The Combatting Terrorism Directive reinforces the provisions of the Victims' Rights Directive and, in Article 24(3), requires support services to be confidential, free of charge and easily accessible to all victims of terrorism and that they include in particular:

- emotional and psychological support, such as trauma support and counselling;
- provision of advice and information on any relevant legal, practical or financial matters, including facilitating the exercise of the right to information;
- assistance with claims regarding compensation.

Importantly, the Directive explicitly states that support should be available for as long as is needed. This should mean for example that free psychological support is not limited to a certain number of sessions. Moreover, if future support is needed – having ended support previously, this should also be made available where the support is needed due to the attack.

Furthermore, the Directive on Combatting Terrorism requires that 'Member States should ensure that a comprehensive response to the specific needs of victims of terrorism immediately after a terrorist attack, and for as long as necessary, is provided within the

national emergency-response infrastructure. To that end, Member States may set up a single and updated website with all relevant information and an emergency support centre for victims and their family members providing for psychological first aid and emotional support'. These 'support services should take into account that specific needs of victims of terrorism may evolve over time. In that regard, the Member States should ensure that support services address in the first place at least the emotional and psychological needs of the most vulnerable victims of terrorism, and inform all victims of terrorism about the availability of further emotional and psychological support including trauma support and counselling.'

Victims will need different types of support throughout the recovery process. In addressing these different needs and ensuring individualised support, the individual assessment will play an important role.

The different types of support offered will also depend on the time they are sought or provided. Some types of assistance may be more appropriate in the **immediate phase**, while others should be provided under **long-term support**. Support will also depend on the type of need and the victims' individual circumstances, and can be provided either by **general or specialist organisations**. However, whoever provides the support should have a specialist's knowledge and training.

With this understanding, the support may be: psychological and emotional, financial, practical, or legal. In addition, one form of support is particularly important, and that is support in relation to the victims' need for information, which is, in essence, a conduit to all other rights and services.

a. Information

The right to information as a primary form of support is recognised in the Victims' Rights Directive as an essential task of specialist support services and their staff. At the same time, the Directive on Combatting Terrorism extends this right to ensure that 'support services shall have the ability to provide assistance and support to victims of terrorism in accordance with their specific needs', including through the 'provision of advice and information on any relevant legal, practical or financial matters, including facilitating the exercise of the right to information of victims of terrorism⁵⁸' for as long as necessary.

Victims of terrorism, like all other victims, have a clear need for information and good communication. This is particularly so and particularly urgent immediately after an attack. At the same time, when considering a wider definition of a victim, the broader public as well as actors at the national and international level also have an increased interest in receiving information. In this regard, a balance between the public interest and the need to protect individual vulnerabilities needs to be struck.

⁵⁸ Article 24(3)

Consistent and swift communication is of essence for victims of terrorism and their families. Too often, families of victims express their suffering over how it took hours or days to find out about the fate of their loved ones. Of course, victim identification and information about victims must be handled very carefully. It is equally or more harmful to be provided incorrect information – particularly when you are led to believe a loved one is alive or dead when the opposite is true.

A balance should be struck between speed and accuracy, which means that there may be legitimate reasons for justifying delays. However, careful planning and clear procedures that take into account the needs of victims will help avoid unnecessary waiting.

Moreover, in cases where there are several channels of communication, victims and their families are at risk of getting the same type of information repeatedly, or getting different or contradictory information from different sources. This can have an impact on trust, be confusing and cause further harm.

In the immediate aftermath, victims are primarily focused on information about their situation – if the attack is over, medical care, loved ones, what happens next, who will help them. After a short time, this may progress into a need to know more about what happened. It will also encompass more practical issues such as how they will return home, where will they stay if they are tourists, how will they pay for costs. They will want to know about services that concern them and the rights they have. They will also start thinking about the future and their next steps. Others, however, will not want any of this information. These information needs very clearly vary between individuals and over time.

Importantly whatever information is provided, it should be available through a range of media outlets, should be easily accessible and easy for victims to understand. Language limitations and disabilities should also be taken into account. Information should be clear, correct and sensitive.

Victims of terrorist attacks, as do many other victims, also express a need for the **truth**. They want to know what happened and how it happened, who was involved and why. Providing victims with information on the attacks is crucial for some victims' recovery. However, when providing victims or bereaved families with information, it is crucial to adapt the message to the individual victims' needs. Whilst governments have tried offering information through media channels or information sessions, these approaches have often missed their effect or even caused secondary victimisation.

Victims will expect and need to receive several types of information, including information concerning the proceedings against potential perpetrators, as well as their own (criminal, civil or administrative) proceedings. Where prosecutors are required to make decisions on

Ignacio Echeverría, a Spanish national who lived in the UK, had been reported to be seen trying to protect a number of people, during the London Bridge attack on 3 June 2017. His family has not heard from him since.

Spanish authorities, as well as the family were pressing the UK authorities for information, but it was only on 7 June (four days later) that the family was informed that he had been killed. In the meantime, family members were going from one hospital to another, in the hope of finding him alive, while the UK authorities were presumed to have known his identity almost immediately.

critical aspects of the conduct of the case with which victims might disagree, victims (preferably supported by a legal representative or a support person) should, in line with the Victims Directive, promptly be informed of the reasons underlying the decision and of their rights of review or other methods of redress.

From the perspective of victims, issues relating to the availability and use of information need to be considered both in terms of their right to information and their right to personal privacy. The importance of the right of victims to receive information cannot be emphasised enough. This includes their right to information about the investigation and prosecution of the criminal offences for which they are the victims, victim and other types of support services (e.g., medical, counselling and financial compensation) and exercising their right of access to justice. In all cases, victims should be provided with timely and accurate information from relevant government authorities regarding the investigative and judicial process associated with their case. This information should preferably be provided in non-legal terminology, and, where necessary, interpretation and translation services should be provided at no cost to the victim.

On 17 July 2014, the Malaysian Airlines flight MH17 was taken down while flying above Ukraine, killing 283 passengers and 15 crew members. 193 of the victims were Dutch. In the immediate aftermath of the attacks, VSE member, Slachtofferhulp Nederland (Victim Support Netherlands) set up a response system by building, hosting and maintaining the Immediate Response Centre (IRC) at www.planecrashukraine.nl which remains unprecedented to date in the way in which it had responded and continues to respond to the needs of victims for information.

b. Emotional and psychological support

Everyone reacts differently during and after a terrorist attack. One person might panic. Another person will become angry, someone else might cry and another might run away. Most people will show psychological stress reactions after becoming a victim of a terrorist attack. Those reactions may be more severe on some people.

Stress reactions shown after a terrorist attack can be classified in three different categories:

- **Re-experiencing** the event
- **Avoiding** reminders of the trauma
- **Increased arousal.**

In the majority of cases, the symptoms will decrease or disappear after a few weeks. Most people will recover in a natural way with the help of their own direct environment, but not everyone. With some people, the symptoms do not get any better and sometimes get even worse. They can even go on to develop a disorder.

Victims of terrorism are prone to prolonged psychological suffering as a consequence of their victimisation. A significant number of victims of terrorism develop a post-traumatic stress disorder (PTSD). PTSD is one of the most frequent and debilitating psychological disorders documented in the aftermath of disasters. A number of studies have shown a high burden of PTSD in specific groups such as adults in the general population, direct victims of terrorist

attacks, or rescue workers after disasters. Its prevalence goes as high as 44%⁵⁹. Repeat victimisation also enlarges the chance for development of PTSD⁶⁰.

Moreover, apart from direct victims of terrorism, increased symptoms of PTSD are identified with broader circles and victimised communities, in the wake of a terrorist attack⁶¹.

Apart from PTSD, victims of terrorism are at increased risk of suffering other mental disorders, such as major depression, panic disorder, social phobia, generalised anxiety disorder (GAD) and agoraphobia, while family and friends of victims who had lost their lives are also at a heightened risk of suffering from prolonged grief disorder.

It is important to bear in mind that often symptoms will take the time to show and suffering may last for a prolonged period of time. Research has clearly shown that it is not only the traumatic event itself that will influence the psychological consequences. Pre-trauma, trauma and post trauma factors and indicators make victims more likely to develop problems. Services should be aware of these influencing factors and include them in their assessment and response.

It has been recorded that in the first month after referral to victim-support services, the most commonly reported requirement was for emotional and psychological support⁶².

By giving victims of terrorist attacks the psychological and emotional support they need as early as possible after the attack, and by encouraging and involving the victim's social network in the support process, the risk of PTSD can largely be decreased. If victims develop PTSD, it is very important to refer them to therapy, the two recommended therapies for PTSD being TF-CBT and EMDR. A range of therapies need to be available to victims who are suffering from post-traumatic stress or other psychological symptoms. The International Society for Traumatic Stress studies point to a variety of available therapies to treat trauma among which TF-CBT (Trauma Focused Cognitive Behavioural Therapy) or EMDR (Eye movement desensitisation and reprocessing)⁶³. Living with Post-Traumatic Stress Disorder (PTSD) can be extremely debilitating and in the majority of victims' post-traumatic stress symptoms can be reduced to non-clinical levels or recovery. It is important to understand that victims who suffer from post-traumatic stress symptoms up to a clinical level two months after the attack will need specialised support to recover. Member States should therefore promote a variety of specialised treatments available in the aftermath of an attack. These therapies should work within the understanding that victims of terrorism do not suffer in a vacuum but often within an affected socio-ecological system or social environment. Support for the individual should therefore be embedded in a support for the larger social environment

⁵⁹ Gabriel R., Ferrando L., Sainz Corto E., Mingote C., Garcia-Camba E., Fernandez Liria A., Galea S., *Psychopathological consequences after a terrorist attack: An epidemiological study among victims, the general population, and police officers*, European Psychiatry, 2007.

⁶⁰ Pemberton A. in: Letschert R., Staiger I., Pemberton A. *Assisting Victims of Terrorism: Towards a European Standard of Justice*, p. 125, and references contained therein.

⁶¹ Research on national samples in the US revealed that three to five days after 9/11 44% of Americans reported at least one symptom of PTSD. See Hamblen J., and Slone L. B., *Research Findings on the Traumatic Stress Effects of Terrorism*, last updated 2016, available at: <https://www.ptsd.va.gov/professional/trauma/disaster-terror/research-findings-traumatic-stress-terrorism.asp>

⁶² Barker A. and Dinisman T., *Meeting the needs of survivors and families bereaved through terrorism*, Victim Support England and Wales, 2016, available at: https://www.victimsupport.org.uk/sites/default/files/Victim%20Support_Meeting%20the%20needs%20of%20survivors%20and%20families%20bereaved%20thro....pdf

⁶³ Foa E. B., Keane T. M., Friedman M. J., & Cohen J. A. (Eds.), *Effective treatments for PTSD: practice guidelines from the International Society for Traumatic Stress Studies*. Guilford Press, 2008.

and society in which the individual lives and recovers. Particular attention should be paid to treatments of different groups such as children and minority groups. A narrow understanding of efficient therapies risks failing to reach or support all groups of victims.

Victims of a terrorist attack need emotional and psychological support from the onset of the moment after the terrorist attack. It is very important to assess the psychological needs and risks of a victim as soon as possible after the attack happened.

To support victims of terrorist attacks in the best possible way, support has to be carried out on the basis of different principles:

- Stepped Care Model:
Stepped care is a model/principle often used in mental health services. It is a system offered to people in adequacy with their needs. Stepped care means the most effective, yet least resource intensive treatment is delivered first.
- Watchful Waiting:
The principle of watchful waiting fits perfectly within the Stepped Care Principle. Watchful waiting means being alert to possible risks and problems. It means carrying out a needs and risk assessment short after the attack happened. It also needs to follow up the victim in every stage of the recovery process, and to give an answer to the needs of victims during every stage of the recovery.
- Outreaching:
To reach as many victims as possible, it is very important to work outreaching. Victims often do not know which help exists or may be reluctant to seek help when they do. In each case, it is very important for organisations to do everything they can to reach as many victims as possible. Following the recent London Bridge attack, the Red Cross had supporters wearing Red Cross jackets located in the area of the attack. The intervention was valued by many people affected, as they came up to talk to them to seek info and support.
- Psycho-education:
Victims often do not recognise the psychological and emotional symptoms after a terrorist attack. It is very important to give them information.
- Awareness:
Victims, but also their social network and sometimes even victim-support workers, are not aware and will not recognise the psychological symptoms and PTSD risk symptoms that the aftermath of a terrorist attack can carry. It is therefore very important to train anyone who might be confronted with a victim of a terrorist attack.

c. Financial support

Financial support in this instance is not to be confused with compensation, which is a means for compensating victims for their suffering and acknowledging their victim status. Financial support, on the other hand, is the means of responding to the financial impact of victimisation. Having said that, it is recognised that compensation schemes do aim to achieve both objectives.

In the short term, financial support may be needed to cover very practical issues such as the purchase of new clothes, to pay hotel or medical bills, or to pay for a ticket to fly back home. In the long term, it may be aimed towards responding to the longer-term financial impacts of victimisation, which are not dealt with through compensation schemes. For example, a victim who has lost a limb in an attack may need to move home into an accessible location, or may need to improve accessibility of their current residence, which will impose a financial

burden. Families of the killed victims will need to deal with the financial impact of the transport of the victim's remains or their funeral. There may be financial impacts to participating in trial for the perpetrators which are not mitigated through other means.

Victims who have lost their ability to work or have had their ability to work reduced will suffer reduced income, but may keep their overheads from before the attack. For example, house mortgages and other debts will still have to be paid.

All these costs can present an excessive burden on victims or prevent them from accessing their other rights or rebuilding their lives after the attack. Financial support may be necessary to ensure that these negative consequences are mitigated.

d. Practical support

Apart from medical, psychological or financial support, victims will also need practical support, particularly so if they are foreigners, or even from a different part of the country. This type of support will be needed for simple things, in particular immediately after the attack. This can include transportation from the place of the incident back home and finding a place to stay if they are not close to home, to arranging and rescheduling travel back home if they are from abroad as well as transporting the remains of a loved one who died in the attack.

Yet practical issues can also be very personal to each victim – some may be worried about a dog that is left home without food – and with no one able to walk it. Other issues will be universal, like completing a large quantity of administrative forms and providing or obtaining a wide range of documentation relating to a deceased relative, or even simply obtaining a passport to return home, an ID card to access services, new bank cards, etc.

Lately, in particular with the increased importance of social media, practical support is often provided on an ad hoc, unplanned and mostly uncoordinated basis. Taxi drivers offer free rides in places of impact and social media may be flooded with offers for free accommodation for the persons affected. Nonetheless, emergency planning and immediate and long-term response should also factor in these spontaneous offers to maximise public good will.

While practical issues are particularly a matter of immediate response, practical support in the long-run will also require specialist support.

e. Specialist support

The Victims' Rights Directive requires Member States to ensure generalised but also specialist victim-support services. These services 'should be based on an integrated and targeted approach which should, in particular, take into account the specific needs of victims, the severity of the harm suffered as a result of a criminal offence, as well as the relationship between victims, offenders, children and their wider social environment.

The types of support that such specialist support services should offer could include providing shelter and safe accommodation, immediate medical support, referral to medical and forensic examination for evidence in cases of rape or sexual assault, short and long-term

psychological counselling, trauma care, legal advice, advocacy and specific services for children as direct or indirect victims⁶⁴.

Specialist support will take many shapes and forms. It may require rehabilitation and therapy, ensuring accessibility of a victim's home, vocational training or providing reasonable accommodations in the victim's workplace. Some types of victims' considerations relative to their additional vulnerabilities, such as their gender, age or ethnicity will need to be taken into consideration to ensure adequate support.

Through both legislation and policy, it has been increasingly acknowledged that victims of terrorism need to receive specialised support. To ensure this specialised care is provided on all levels, collaboration and referral is often required. For example, emotional and practical support may be provided by one organisation whilst a victim may be referred to a trauma specialist for counselling and other therapies or to specialist lawyers for legal advice or representation. Whether it is through well-structured collaboration or one-stop-shops, the aim should be to facilitate specialised support for victims of terrorism so that they receive expert care for all their needs.

f. Peer support groups

Peer support groups are a type of support that is particularly characteristic of mass-victimisation, such as natural disasters, air crashes or terrorism, even though they exist with other types of victimisation. The value of peer support groups is in the understanding and shared experience of the participants.

Whilst many of the support activities for victims of terrorism are the same or similar to other victims, peer support groups can be a particularly beneficial form of support for victims of mass-victimisation. Peer support groups largely form spontaneously through individual contacts between victims, and the mutual experience and support they offer each other.

These close bonds tend to form as there are very few people who have been through the type of extreme experience that terrorism victims have undergone. Moreover, in coping with the aftermaths of violence, victims of terrorism have the feeling that their particular experience can only be understood by someone who has been through something similar.

Importantly, such groups often go beyond what organisations do, since they are acting out of pure personal motivation and often through a shared friendship. This means they may be available at any time of the day or night for each other or at weekends. They are likely to be able to empathise with the problems being faced or the emotions a person is experiencing. They can offer their personal advice based on their own experience. And when other organisations have long moved on, many of the victims and families will remain in touch, ready to help years after the attack.

Yet despite the value of such groups and the relatively spontaneous way they form, they often do not receive the support they need to form and to continue. States and NGOs can employ various means to assist peer support groups, such as facilitating victims to make contacts, assisting with administrative aspects of creating an organisation, assisting with

⁶⁴ Recital 38.

financing, helping groups join with professional support, recognising groups within policy-making processes etc.

2.2.4. Protection

The whole of Chapter 4 of the Victims' Rights Directive is dedicated to the protection of victims and ensuring specific protection needs. The right to protection is guaranteed, without prejudice to the rights of the defence, and ensures that 'measures are available to protect victims and their family members from secondary and repeat victimisation, from intimidation and from retaliation, including against the risk of emotional or psychological harm, and to protect the dignity of victims during questioning and when testifying. When necessary, such measures shall also include procedures established under national law for the physical protection of victims and their family members⁶⁵.'

Specific forms of protection may include: the right to avoid contact with the offender (Article 19), the right to protection during criminal investigation (Article 20); the right to protection of privacy (Article 22). In addition, the Directive repeatedly emphasises the need to protect victims from secondary victimisation. Nonetheless, it would appear that all these guarantees are limited to criminal proceedings. The Directive on Combatting Terrorism only refers to the protection provided by the Victims' Rights Directive, without adding new rights or obligations relevant to the protection of victims of terrorism.

a. Physical protection

Physical protection of the victim is a right provided for generally by the Victims' Rights Directive, as well as criminal and other procedural legislations in the Member States. However, unlike other crimes, where protection is mostly needed due to a personal relationship between the victim and the perpetrator (e.g. in cases of victimisation by domestic violence, human trafficking or organised crime, or even terrorism understood in a more 'traditional' sense, where targets were very specific) 'modern' terrorism is characterised by the absence of this relationship. Nonetheless, this physical protection might still be needed at times – this can particularly be the case where a person is under threat.

b. Protection from secondary victimisation

Secondary victimisation of victims of terrorism needs to be understood more broadly than mere victimisation during criminal proceedings, whilst the broader circles of victimisation also need to be revised to be able to formulate an adequate response.

There are countless ways in which victims may be exposed to secondary victimisation and many of the examples already provided in this study are in fact examples of secondary victimisation. Fundamentally, further harm and distress can be caused to victims by the very actions or inactions of society, governments and organisations.

⁶⁵ Article 18 of the Directive

From a societal perspective, this could mean an unsupportive, victim-blaming reaction from the victims' immediate social surroundings or wider population, where showing lack of social support can be the strongest post-trauma⁶⁶. Whilst victims of recent jihadist related attacks tend to receive universal support, terrorism related to internal conflict such as in Northern Ireland or Spain did not result in similar universal sympathy and solidarity.

Other examples of secondary victimisation include delays in informing families about their loved ones, inappropriate language or questions by staff in governments, compensation authorities or insurance companies. Importantly, it has been seen in Belgium that application standard procedures and forms for insurance claims (including asking questions such as whether the victim knew the perpetrator) are highly traumatising for the victims of a terrorist attack in what is clearly not a standard claim. Specifically, trained staff and procedures could easily minimise such harm. Or for example, receiving a parking ticket weeks after the attacks for when the victim failed to move their car as they were killed; or failure to involve victims in the discussions about memorials and failure to maintain them are just some examples of how secondary victimisation can wait around any corner.

These are merely a few of the many examples that can be found in every country. Many of these solutions are simply conscious of the fact that these victims are in an abnormal situation, and greater care is needed when treating with them. This can entail training, specific procedures, nomination of staff solely for these cases, forward planning and ensuring victims' participation in any initiatives, etc.

c. Victimisation through the media

When it comes to secondary victimisation of victims of terrorism, one particular issue attracts attention, and that is secondary victimisation through media reports and response of the public.

The nature and impact of terrorist attacks often attracts much more media attention than any other form of violence. In chasing after the story, the media can forget the impact they have on people's lives. This can arise minutes after an attack, where we have seen journalists present on the scene, mostly focused on filming and reporting on the dead and injured rather than helping them. Similarly, reporters fast on the scene are quick to find the first bystander or victim and ask them to recount their experience. Yet this very act of recounting in this particular context can increase the risk of PTSD or at least inhibit the victim's recovery.

In the long run, the way the media reports the attack can devalue the victims, particularly when there is a strong focus on the perpetrators and less so on the victims. Importantly, in some countries, mainstream media outlets like the BBC are increasingly taking this approach. Some news presenters in the US now refuse to name the suspects in order to minimise the attackers' publicity goals.

Repeated 24/7 coverage can also increase PTSD rates within the general population. Even after the initial media storm has abated, various programmes and documentaries may be produced, especially around anniversaries. At a point when victims may be normalising their lives, unexpected contacts from the media can trigger traumatic memories. Indeed, victims

⁶⁶ Brewin, Andrews and Valentine, *Meta-Analysis of Risk Factors for Posttraumatic Stress Disorder in Trauma-Exposed Adults*, available at: <https://courses.washington.edu/pbafadv/examples/PTSD%20Meta.pdf>.

of terrorist attacks in France have pointed to the media as an extra burden and traumatising factor.

Whilst respecting the importance of the role of the media – including for victims – there are a range of actions that can help reduce the negative impact on victims. This of course starts with effective support measures for victims to cope with news stories but also to understand how to engage with the media in a safe and meaningful way.

When the news of the terrorist attacks of November the 13th of 2015 broke in Paris that evening, the journalists immediately started calling phone numbers of places reported to have been affected, even while the attacks were still ongoing. They managed to get hold of some of the victims, while the attackers were still in the premises, and before the first responders arrived. Having made recordings of one such exchange, a radio station aired it, without the victim's consent. Some of the victim's family and friends found out about their victimization through the media.

The media themselves should act responsibly when reporting on attacks. Codes of practice, self-regulation and ethics codes should be developed and adhered to. Training should be provided and attended to better understand the impact of questioning and reporting on victims, and how this might be achieved in a victim-sensitive way. This could include support by State and actors of civil society. For example, it is important to understand that people suffering trauma may not be in a position to refuse an interview. It is therefore simply not enough to state their consent. An understanding of the psychology of the victim is essential for good reporting.

Within support mechanisms, victims can be empowered to speak, may be protected from the media, or may use spokespersons. At the heart of this approach is informed choice.

As an investigation follows its course and during any criminal justice proceedings, victims should be shielded from unwanted intrusions while also being assisted with media contact for those that are interested.

The State should develop a mechanism to provide relevant case information to victims and families before they hear it through the media. To the extent that it is possible, victims should be informed in advance of press conferences and briefings so they can be prepared for media outreach or avoid reading or watching the media.

In addition, depending on the particular circumstances of the case, including the level of interest and coverage of the mainstream media and social media networks following a terrorist attack, the related investigation and criminal proceedings and disclosure of the identity of the victims and their families can lead to secondary victimisation.

Authorities should therefore exercise vigilance to protect victims' privacy and confidentiality, in particular their identity and contact information, as well as more sensitive information on their medical, emotional or mental health status. Given their right to privacy and respect for their family life, victims should be shielded from unjustified intrusion by the media. They should also be informed about their options with regards to dealing with the media and, if necessary, be provided with support by media communications specialists.

Moreover, the increasing importance of social media also has a strong bearing on secondary victimisation of victims of terrorism. While an important source of support, and increasingly information, social media is far from being immune to deliberate targeting of victims to cause

them emotional suffering, and more often, cause for accidental harm by sharing insensitive content.

In today's society, uncensored images of an attack may be uploaded on YouTube, Facebook and other sites within minutes of an attack. It is essential that the public becomes increasingly sensitive to the sharing of such information, and that the State supports this awareness-raising. Indeed, the power of social media is such that after the recent London attacks, individuals quickly started tweeting users not to post pictures or videos of the victim. While not 100% effective, those tweets were repeatedly shared and seemed to have had an impact. Moreover, social media sites should react quickly to inappropriate content and have teams specifically focused on this issue after an attack.

Apart from the secondary victimisation of direct victims, the media can also contribute to primary victimisation of vulnerable consumers on one hand, and normalisation of violence on the other. In contrast, social media sites can be part of the solution, for example by allowing users to check themselves as being safe where there is a disaster in their area, or as mentioned earlier by supporting open-house offers for stranded victims, or free taxi services.

In addition to sensitive media reporting and contacts with victims, the media must take into account the potential impact of general reports on terrorism. A good practice seen in various countries, is an announcement or a disclaimer at the beginning of a film or a piece, warning about the potentially disturbing content. At the same time, some productions also provide contact information of support services for people affected by the broadcast.

2.2.5. Access to justice

'From a legislative perspective, safeguards to protect victims' rights appear across various domains and levels, ranging from EU primary law to legally non-binding acts at national level. Together, these sources form a respectable body of legislative and other measures that aim at providing victims with their fundamental right of access to justice.

However, the interpretation of how precisely justice should be made accessible to victims varies by Member State, due in part to divergent historical concepts of the victim's role in criminal procedures. These differences then translate into different approaches to victim-support⁶⁷.

In many cases there might not be criminal proceedings, thus the victims and others are often left without answers: why, how it might have been prevented, the emergency and support response and lessons learnt. An example of this need constituted the campaign for a public enquiry by the survivors of the 7/7 bombings. It is important for survivors and families of the deceased that answers be available as promptly as possible after a terrorist attack and a trial, if there is one, it often does not answer all their questions. Public enquiries are costly and may impact negatively some victims who need to contribute.

The Victims' Rights Directive does not assume access to justice to victims of terrorism as such, but does guarantee an important fundamental right, which is the right to legal aid.

⁶⁷ EU Fundamental Rights Agency (FRA), *Victims of crime in the EU: the extent and nature of support for victims, Summary*, 2015, available at: http://fra.europa.eu/sites/default/files/fra-2015-victims-crime-eu-support_summary_en.pdf

According to Article 13 of the Directive, 'Member States shall ensure that victims have access to legal aid, where they have the status of parties to criminal proceedings. The conditions or procedural rules under which victims have access to legal aid shall be determined by national law.' In addition, a range of articles are focused on facilitating participation.

Nonetheless, the European Court on Human Rights (ECtHR) has long affirmed that there is an obligation of the State to carry out an effective investigation into the circumstances of a terrorist act⁶⁸. Effective access to the law and to justice for victims of terrorist acts should be provided to them, and the quality of victims of terrorist acts should be adequately recognised in criminal proceedings⁶⁹. Furthermore, there should be sufficient public scrutiny in ensuring victims' access to key documents⁷⁰.

However, the right of access to justice and investigation of a terrorist act does not stop only at ensuring that proceedings take place. Victims must be made to feel a sense of inclusion and provided with a supportive and empowering environment throughout the criminal proceedings.

The expectations of victims regarding the outcome of the criminal proceedings, their lack of legal knowledge, their need for timely and accurate information about the prosecution process and the involvement of the media during the trial process can all lead to secondary victimisation unless effective measures are put in place to support and protect victims⁷¹.

The United Nations Office for Drugs and Crime (UNODC) has already identified that it is fundamentally important that States provide victims of terrorism, in accordance with their national legislation, with targeted support, rights and effective means for accessing justice that best suits their local conditions. It is, also for this reason, important to have detailed lists of victims that are carefully and dutifully managed by the State. Wherever possible,

⁶⁸ ECtHR, *Kiliç vs Turkey*, case no. 22492/93, judgment of 28 March 2000, §93; *Velikova vs Bulgaria*, judgment of 18 May 2000.

⁶⁹ Albrecht H-J and Kilchling M., *Victims of Terrorism - Policies and Legislation in Europe - An Overview on Victim Related Assistance and Support*, Max Planck Institute for Foreign and International Criminal Law, 2002, available at: http://www.coe.int/t/dqhl/standardsetting/victims/PC-S-AV_2005_04%20-%20e%20-%20Report%20Max%20Planck%20Institute%20-%20Victims%20of%20terrorism.pdf

⁷⁰ ECtHR, *Tagayeva and others v. Russia*, judgment of 13 April 2017.

⁷¹ UNODC, *Good Practices in Supporting Victims of Terrorism within the Criminal Justice Framework*, 2015, available at: https://www.unodc.org/documents/terrorism/Publications/Good%20practices%20on%20victims/good_practices_victims_E.pdf

PRO BONO ASSISTANCE

The events of 9/11 paved the way for the largest *pro bono* effort in the history of American Jurisprudence – Trial Lawyers Care (TLC), developed by the Association of Trial Lawyers of America (now the American Association for Justice) to support the families of the victims of 9/11.

Immediately following the attacks, ATLA called for a moratorium on any lawsuits and encouraged the enactment of the September 11th Victim Compensation Fund – the most generous compensation program since Medicare was enacted in the 1960s. TLC was formed soon afterwards. More than 1,100 attorneys nationwide participated, securing awards of more than \$2.5 billion. Over 1,700 plaintiffs were represented and the value of the *pro bono* legal services provided exceeded \$300 million dollars. Volunteer attorneys have said that representing TCL has been the most rewarding experience of their career.

(CaseyGerry, *Historic 9/11 Pro Bono Effort*, August 2016, available at: <https://caseygerry.com/historic-911-pro-bono-effort/>)

States should, in accordance with their national legislation, policies and practices, provide victims of terrorism specific rights and roles within criminal proceedings⁷².

The UN Special Rapporteur noted that investigations should, in every case, meet certain minimum standards. Namely, once the matter has come to the attention of the authorities, they must act *ex officio* and not wait for a formal complaint. The investigation should always begin promptly. A timely investigation is more likely to secure reliable evidence. While there may be obstacles delaying progress in an investigation, it must be carried out with reasonable expedition. In all cases, once an investigation has been opened, authorities must ensure that the victim or their next of kin are kept fully informed of its progress, and are provided with an adequate opportunity to participate⁷³.

a. Legal aid

In order to provide victims of terrorism with an effective access to justice, it is necessary to empower them and support them through the proceedings. Apart from providing psychological and other means, legal aid may become a necessary element of this support.

This need is recognised by the Council of Europe, which requires States to provide effective access to the law and to justice for victims of terrorist acts by providing them legal aid in appropriate cases⁷⁴. This is reemphasised by the case-law of the ECtHR, which guarantees the right to legal aid for an effective access to court. In order to ensure effective participation in the proceedings, victims should be provided with legal aid at no cost to facilitate their representation in court proceedings⁷⁵.

Hence, unlike the requirement of the Victims' Rights Directive, the right to legal aid is broader than just legal aid in criminal proceedings. Victims will have the need to receive support in proceedings to obtain compensation, which may be civil or administrative, or to file a tort claim against those responsible, where allowed by national legislation. Furthermore, legal skills may be needed also in the victims' exchanges with the media, insurance companies or authorities in general, or even the European Court of Human Rights. Therefore, limiting legal aid only to criminal proceedings would mean effectively disabling victims from fully enjoying their right of access to justice.

b. Costs of proceedings

Participation in the proceedings is one of the key aspects for victims to enjoy an effective access to justice. However, it is often related to expenses, other than costs of lawyer's fees. Sometimes access to a court may be conditioned by paying a court fee, which the ECtHR has held to impede the right of access to justice. Namely, the ECtHR held that if court fees are

⁷² Ibid.

⁷³ UN Human Rights Council, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism: framework principles for securing the human rights of victims of terrorism*, UN Doc A/HRC/20/14, 4 June 2012, available at:

http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-14_en.pdf

⁷⁴ Council of Europe, *Human Rights and the Fight against Terrorism – the Council of Europe Guidelines*, 2005, p. 43. available at: http://www.un.org/en/sc/ctc/specialmeetings/2011/docs/coe/coe-rights_guidelines_en.pdf

⁷⁵ UNODC, *Good practices in supporting victims of terrorism within the criminal justice framework*.

too high, this may deprive individuals of their right of access to court⁷⁶. While there is no strict definition of what an excessive fee may be, and this is to be determined in each individual case, the fees of up to four times a person's monthly income will be considered disproportionate⁷⁷.

Other times, victims will need to present themselves personally in court, which can entail costs and loss of income. If the victim needs to travel to attend the hearing there will be travel, accommodation and subsistence costs related thereto. If the victim needs to take a day off from work, this may result in loss of income. Moreover, if the victim wants to come to the hearing with a support person of their choice (a friend or a relative), this will cause additional costs to those persons too.

c. Outcome of proceedings

There can be no guarantee of a guilty verdict for the perpetrators or their supporters, including for acts of terrorism. However, as has been reemphasised many times, including in human rights case-law, and in particular that of the ECtHR, victims do have the right to a fair outcome in criminal proceedings, which will address their grievances within a reasonable period of time⁷⁸. This is particularly relevant for the victims of terrorism.

Such fair outcome of the proceedings will mean, for example, that investigation is properly conducted and that all avenues are exhausted to identify the perpetrators and their supporters. If the perpetrators are identified, every effort needs to be made to bring them to justice, including by means of international cooperation.

Apart from the right to an outcome, as a means of closure for the victim, this outcome can be seen by the victim as desired and favourable or its opposite. In the latter case, the victim can have access to a legal remedy by means of which they could question the outcome of the proceedings, either independently or through the prosecutor.

2.2.6. Compensation

One of the founding principles and drivers of the entire movement of victim support was the right of victims to compensation. In the 1950s, English penal reformer Margery Fry initially proposed the idea that the state should provide financial reimbursement to victims of crime

⁷⁶ ECtHR, *Perdigão v. Portugal* [GC], No. 24768/06, 16 November 2010, § 74

⁷⁷ ECtHR, *Kijewska v. Poland*, No. 73002/01, 6 September 2007, § 47

⁷⁸ According to the case-law of the ECtHR, the right to a fair trial does not actually guarantee the right of a victim to a specific outcome – a guilty verdict or an award of a civil claim. However, there must be a genuine investigation, a serious consideration of facts and legal arguments, and a legally constituted court, as well as a final decision reached within a reasonable period of time. Letting criminal proceedings fall under statute of limitations, for example, can constitute a violation of a victim's rights of access to justice, if the investigation is found to have been ineffective. The Court considers that the passage of time inevitably erodes the amount and quality of evidence available and the appearance of a lack of diligence casts doubt on the good faith of the investigative efforts (see *Trubnikov v. Russia*, no. 49790/99, § 92, 5 July 2005). The passage of time is also liable to definitely compromise the chances of investigation from being completed (see *M.B. v. Romania*, no. 43982/06, § 64, 3 November 2011). It also prolongs the ordeal for the members of the family (see *Paul and Audrey Edwards v. the United Kingdom*, no. 46477/99, § 86, ECHR 2002-II). In case of a significant delay in the proceedings, the State has to provide highly convincing and plausible reasons to justify such a delay (see *Šilih v. Slovenia* [GC], no. 71463/01, § 203, 9 April 2009). Hence, having proceedings pending for an extended period of time can constitute a violation of the State's procedural obligation to investigate violations of the right to life.

for their losses. Compensation for victims of violent crime is justified by social solidarity, which in turn justifies a social welfare approach, making the type and the amount of compensation dependent on the financial needs that are due to falling prey to violence⁷⁹.

The importance of the right to compensation for victims of violent crimes is equally recognised by the European legislator. In 2004, the EU Member States adopted the Council Directive 2004/80/EC, setting up a system aiming to facilitate access to compensation for victims of crimes in cross-border situations. This legislative instrument ensures that all Member States have in place state compensation schemes for violent intentional crime. It also ensures that cross-border victims are granted compensation under the same conditions as a Member State's national and that cross-border claims are facilitated. This system should 'operate on the basis of Member States' schemes on compensation to victims of violent intentional crime, committed in their respective territories.' This Directive was inspired by the Commissions' proposal resulting from the Green Paper – developed after an EU-wide consultation on potential solutions to improve compensation to cross-border victims in the EU. The Directive was adopted following the findings of the Court of Justice held in the Cowan Case. In this case, the judge states that when Community law guarantees to a natural person the freedom to go to another Member State, the protection of that person from harm in the Member State in question, on an equal footing with nationals and persons residing in that state, is a corollary to that freedom of movement⁸⁰.

The Council Directive 2004/80/EC offers regulations to ensure cross-border victims have the right to compensation in all EU countries, and reinforces cooperation between Member States. The preamble makes it clear: 'Crime victims in the European Union should be entitled to fair and appropriate compensation for the injuries they have suffered, regardless of where in the European Community the crime was committed'. The Council Directive offers a framework for collaboration on cross-border compensation claims but leaves the responsibility for procedures completely in the hands of the Member States. A Victim Support Europe study points to the enormous difference between Member States when it comes to eligibility criteria, compensation provided, amounts for compensation, success-rates, procedures and decisions made⁸¹. Thus, the country where you become victim of a violent and intentional crime, including terrorism, will necessarily influence how and how much compensation you can get as a victim.

With a Directive on State compensation already put in place and for reasons of legal-basis limitations, the Victims' Rights Directive only focuses on the right of victims to receive a decision on compensation from the offender, within criminal proceedings. The objective here is to avoid victims from having to go through both a criminal proceeding and a separate civil law case for compensation matters.

Financial impacts of terrorist victimisation are huge and can become overwhelming. It is, therefore, necessary to establish a solid system of compensation for victims of terrorism.

For victims of terrorism, some Member States have put in place a separate compensation scheme to the one for victims of other violent intentional crimes (e.g. Spain) or more flexible procedures (e.g. Belgium) within the same compensation scheme. Most separate

⁷⁹ Council of Europe, *Victims – Support and Assistance*, 2007, p. 250.

⁸⁰ Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, recital 2.

⁸¹ Victim Support Europe, *Challenges and solutions with respect to the provision of support to victims of crime in a cross-border situation – report*, 2017.

compensation schemes for victims of terrorism are characterised by higher maximum amounts, increased levels of flexibility, and adapted forms of recognition of victimisation.

Compensation for victims of terrorism, as for many other victims, serves a dual purpose.

Firstly, compensation can offer **recognition for the harm** caused by the terrorist attack. Victims of terrorist attacks are victimised as a symbol of the state and society. Apart from compensation from actual costs and losses, compensation to victims of terrorism should also act as a form of acknowledgement of a victim's suffering, conveying a symbolic message of recognition of the loss incurred and an acknowledgment of responsibility⁸².

Secondly, compensation acts as **financial restitution** for the harm done by the attack and its direct effects. Terrorist attacks can have a wide variety of financial consequences on victims. Compensation of costs directly related to victimisation can help ensure victims are able to deal with costs like e.g. funeral costs, medical bills, practical costs related to forced change of housing, loss of income. Victims of terrorism have immediate costs directly arising from the attack. They might come from medical costs, damage to property, loss of income, travel costs for the victim and/or family members and similar obvious costs. In addition, there will also be significant distal financial losses and other costs, which are not that obvious at first, especially where victims have suffered physical damage or other severe damages that threaten their primary needs (housing etc.). It may also include needs for compensation of more distal financial losses like longer term medical costs, production loss, intangible costs and the like⁸³.

The following aspects are vital to making sure victims of terrorism perceive compensation both as a form of recognition as well as financial restitution. To ensure compensation is also perceived as a form of acknowledgement by the victims, it is important for this award to be offered in a personal, respectful, and considerate manner and for the special meaning of the money to be emphasised. It should be accompanied by an acknowledgment of what had happened, preferably worded in humane, warm terms⁸⁴. The failure to explain to the victims the aim of the compensation schemes which is to recognise them as victims, has made it difficult and confusing for some victims to understand why lower amounts awarded to them did not come close to fully fulfilling their financial needs. Compensation should be fair and in no way discriminatory. In order to offer all victims of terrorism recognition, they should have access to compensation regardless of their nationality or their residence status.

Next to recognition and acknowledgement, the victim-oriented approach and attitude of compensation schemes are vital. State compensation programmes demonstrate social concern. In countries where that principle influences the staff's approach, attitude and skills, victims feel more supported and recognised. In cases where state compensation staff are properly trained, they can form an important factor in the recovery process. Where such an

⁸² Hulstcorresponding L. and Akkermans A. J., *Can Money Symbolize Acknowledgment? How Victims' Relatives Perceive Monetary Awards for Their Emotional Harm*, Psychological Injury and Law 2011, available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3267030/>

⁸³ Pemberton A. in *Assisting Victims of Terrorism: Towards a European Standard of Justice*, Letschert R., Staiger I., Pemberton A. (eds.), *Assisting Victims of Terrorism: Towards a European Standard of Justice*.

⁸⁴ Ibid.

approach is taken, the administration of the scheme can be as or more important than the payment itself⁸⁵.

Secondly, many compensation schemes still remain characterised by bureaucratic and lengthy administrative procedures to claim for compensation. Victims of terrorism express their need for simple, transparent and accessible procedures. Most Member States have not yet been able to simplify the procedures to the extent that it is simple for victims to apply and receive compensation. In addition, many victims of terrorist attacks, like the ones in Brussels, describe these lengthy and complex procedures as traumatising and burdensome. This form of secondary victimisation does not help achieve the aim of compensation schemes in supporting and acknowledging victims of terrorism, but rather the opposite. Furthermore, the strong transparency of a compensation scheme procedure will help avoid the perception that compensation schemes are not fair or biased. In some countries, support organisations and compensation authorities point to the fact that having a lawyer represent you in court will strongly increase your chances of getting awarded a larger compensation. This fact goes against the spirit of compensation, which tries to express social concern to all those hurt. Transparency and information on the existence of a compensation scheme for victims of terrorism is a stepping-stone to allowing compensation to reach its goals. Some countries fail to inform victims of terrorism about the availability of a state compensation scheme and in that way deprive victims of their right. After all, for most victims it is in fact the case that before they become victims they are unaware of the availability of state compensation, making it impossible for them to apply without receiving targeted information. Informing victims about this possibility should be an inherent element of the communication planned after an attack. As victim experts point out, the need for this information lies much earlier in the recovery process than it did decades ago. Some countries only use limited or no resources to make sure victims of terrorist attacks are aware of this possibility. Others, like France, have taken important strides to not only inform victims about the possibility immediately but also to make the procedure swifter and more flexible.

Thirdly, the actual amount and timing of financial compensation schemes are very important for victims of terrorism. As discussed above, the financial burden on victims of terrorism can be very high. Compensation schemes should be available immediately to support victims with the immediate financial needs (e.g. funeral costs, medical bills) as well as in the long-term. Immediate payments either in form of immediate financial assistance or advance payment ahead of final decision on compensation, should not exceed the final decision on compensation, with victims having to risk returning the excess amounts. Furthermore, the amount of compensation should be able to provide substantial financial support for dealing with the direct and indirect harm caused by the attack. After terrorist attacks, victims face an increased risk of severe life-changing physical injuries. Medical staff attending to the victims of recent terrorist attacks in Europe testify to the war-like injuries victims have from amputated limbs to shrapnel and hearing loss. These injuries often imply high and life-long medical costs that impose a financial burden on those victims who are not covered by insurance. Furthermore, terrorist victims have a higher risk of developing psychological problems like Post-Traumatic Stress disorders (PTSD) than victims of some other violent crimes (like sexual assault). In addition, those financial costs pose an additional burden on victims and should be taken into account when determining the maximum amounts of

⁸⁵ Young M. A., *The Role of Victim Compensation in Rebuilding Victims' Lives*, International Organisation for Victim Assistance, available at: http://www.iovahelp.org/About/Marlene_Young/RoleofVictComp.pdf

compensation schemes. Concerning these maximum amounts, the method of determination of the amounts should be communicated in a transparent way to victims of terrorism. After the Brussels attack, none of the victims had received the maximum amount of compensation that was communicated in the press, a question that was naturally raised by the victims. Lastly, communication and collaboration between compensation schemes and insurance companies are advised to help the government avoid having victims being sent back and forth in search of a financial restitution.

2.2.7. Individual needs of victims of terrorism

It is worth noting here that, of course, in any individual case, victims will have more or fewer needs – hence the individualised approach. 'The needs of victims vary widely depending on their individual circumstances and evolve over time, starting from the period immediately following a terrorist incident, to the medium and long term. Needs such as medical, financial, psychological and emotional support, as well as access to information before, during and after the criminal process, should be addressed through a comprehensive and integrated government response, in full coordination with other public or private support services⁸⁶.

Apart from the general needs of victims and the more specific needs of victims of terrorism, every victim will have his own individual needs. Those needs will evolve over time, starting from the period immediately following a terrorist attack, to the medium and long term⁸⁷. The key approach to support of victims and meeting victims' needs, is to recognise how the needs of victims differ and to assess the specific needs of individuals.

The individual needs of victims will vary widely depending on a number of factors, including personal characteristics of the victim such as age, gender, gender identity, race, religion, sexual orientation, health, disability, residence status, communication difficulties etc.; the impact of the attack; earlier victimisation or stressful life events; (mental) health; social network; socio-economic situation; and daily stressors.

The key approach to meeting victims' needs and understanding their problems, is to recognise how the needs of victims differ and what may be the specific needs of individuals. This is important as it helps governments and organisations develop common-level responses as well as individualised approaches. This principle is promoted in the Victims' Rights Directive, in particular in Article 22, which sets out an individual assessment of victims to identify specific protection needs. Finally, the personal characteristics and situation of each individual will influence the impact of victimisation, the needs of that particular victim and the most appropriate response. In addressing victimisation, it is important to bear in mind that the needs of every victim are unique and individual.

⁸⁶ UNODC, *Good Practices in Supporting Victims of Terrorism within the Criminal Justice Framework*, 2015, available at: https://www.unodc.org/documents/terrorism/Publications/Good%20practices%20on%20victims/good_practices_victims_E.pdf

⁸⁷ Ibid.

2.2.7.1. Individual assessment

A fundamental aspect of addressing needs is to know what those needs are. Needs assessments can be split between a community or regional needs assessments and a victim needs assessment. The former is used to identify both needs and gaps in action and resources in the wider community. The latter focuses on the specific needs of an individual victim after an attack. These are commonly used in a range of organisations, in particular victim-support organisations when they first make contact with a victim.

At the international level, there has been less focus on needs assessments. However, the Victims' Rights Directive requires such an assessment to identify vulnerable victims for the purposes of determining what protection measures they may need in criminal proceedings. Those assessments 'should take into account the personal characteristics of the victim such as his or her age, gender and gender identity or expression, ethnicity, race, religion, sexual orientation, health, disability, residence status, communication difficulties, relationship to or dependence on the offender and previous experience of crime. They should also take into account the type or nature and the circumstances of the crime such as whether it is a hate crime [...] whether the offender was in a position of control, whether the victim's residence is in a high crime or gang dominated area, or whether the victim's country of origin is not the Member State where the crime was committed⁸⁸.'

In the elaboration of this right, Article 22 of the Victims' Rights Directive develops in detail how this individual assessment should be carried out in criminal proceedings.

- The individual assessment needs to be timely and focused on the individual victim;
- It needs to identify specific protection needs;
- It needs to be broad and take into consideration three main aspects: victim's personal circumstances, the type and nature of the crime and the circumstances of the crime;
- Particular attention needs to be given to certain vulnerable groups of victims, which includes the victims of terrorism;
- The extent of the individual assessment may be varied, depending on the victim's particular circumstances;
- It should be revised throughout the proceedings to respond to a victim's changing needs.

However, in addition to individual assessments for criminal proceedings, victims of terrorism have specific needs before and often also long after the proceedings are terminated. Moreover, some crimes will not reach the stage of criminal proceedings due for example to the disappearance or death of the perpetrator, or it will take a substantial amount of time to be brought before a court.

This is recognised by the Combatting Terrorism Directive, which stipulates that services addressing the needs of victims of terrorism are available 'for victims of terrorism immediately after a terrorist attack and for as long as necessary⁸⁹.' However, neither it nor

⁸⁸ Recital 56

⁸⁹ Recital 29

the Victims Directive establishes obligations on a wide needs assessment which would encompass issues not relevant to protection measures or criminal proceedings.

When any victim approaches an authority or organisation seeking assistance, that entity should have in place mechanisms to assess the needs of victims. With respect to victims of terrorism, in an ideal scenario, a single assessment will be carried out at the earliest opportunity after the attack and should be reviewed on a regular basis.

Ideally, the assessment will be carried out by a person trained or specialised in victim support or assistance, or with their participation. In the process, victims should be asked a detailed set of questions to determine what their range of needs may be (covering the five broad needs). It is worth noting also that such a process is more accurately described as a series of conversations than a set of questions. Importantly, the process should be inclusive and participative.

These questions seek to understand the impact of the attack on the individual as well as the personal background of the victim. In effect, the support working seeks to learn about any factors which may influence what type of service or assistance they need - what vulnerabilities, strengths or resources the individual may have.

Individual assessments are specific to the person concerned and for the person's actual situation. This means that an individual assessment needs to be revised and reviewed, as a person's situation changes over time. As discussed, a variety of factors have been linked to the specific impact of terrorism both pre-trauma, trauma and post-trauma factors, which should all be taken into consideration during an individual assessment.

It has been observed that with respect to victims of terrorism, in particularly those experiencing large-scale attack, it is important for organisations to take a proactive approach by reaching out to victims rather than waiting for them to seek support.

Whilst some authorities may be reluctant to re-contact victims who have said they do not want further information, it is important to understand that a victim's situation changes over time. A person who may have been relatively fine in month 1, 2, or 3, may start suffering PTSD symptoms in the following months. Similarly, an individual who received support but eventually no longer needed it, may be affected by a trigger event. It is essential that organisations maintain a 'watchful waiting' approach, contacting victims at intervals, and letting them know help is available if they need it.

This changed approach has already started taking root in France and is being recognised as the appropriate approach by victim-support specialists. While the assessment should be periodically revised, victims should also be encouraged to inform support providers proactively about any changed circumstances.

Within the terrorism victim population, certain groups can be identified as particularly vulnerable and in need of a particular response. As mentioned throughout the study, victims' needs evolve over time. However, victim's personal circumstances at the time of the attack as well as certain societal and environmental factors will also impact on a victim's situation. These factors may influence victims' needs in a number of ways.

2.2.7.2. Vulnerable groups of victims

a. Cross-border victims of terrorism

As already discussed, terrorism often affects foreign victims, with recent large-scale European attacks generally affecting foreigners to a greater extent than nationals of the country. These victims may be tourists, business people or other visitors to the country. Equally they may reside in the country but be of foreign origin – to a less or greater extent integrated into the country.

At the same time, built on the premise of freedom of movement and equality of its citizens, the European Union has recognised the specific issues faced by cross-border victims of terrorism. Their right to compensation and the problem they face in accessing it across borders was first addressed in the Compensation Directive. Cross-border difficulties were equally recognised in the Victims Directive and in the Directive on Combatting Terrorism.

In Article 26, the Directive requires that victims of terrorism who are residents of a Member State other than the one where the terrorist offence was committed, have access to information regarding their rights, the available support services and compensation schemes in the Member State where the terrorist offence was committed.

Moreover, Member States must ensure that all victims of terrorism have access to the assistance and support services on the territory of the Member State of their residence, even if the terrorist offence was committed in another Member State.

While being very positive, these new guarantees are limited to residents of Member States. Nevertheless, the EU Victims Directive applies to all victims in the country where the crime took place, irrespective of nationality. Nevertheless, the current approach at the EU level, risks that victims from non-EU countries could be treated in markedly different ways to EU citizens.

In such cases, victims may rely on guarantees available through the mechanisms of the Council of Europe, notably the European Convention on Human Rights and the Council of Europe Revised Guidelines of the Committee of Ministers on the protection of victims of terrorist acts, as well as other binding EU laws and EU soft-law, the Council of Europe and UN instruments.

Recently, Victim Support Europe published a study on Cross-border Victimization, which explores the specific situation of persons who become victims of crimes outside of the borders of their own country⁹⁰. The study did not discuss specific needs of victims of terrorism, but has identified a number of issues shared by all cross-border victims, which may take different forms or perhaps be more intense when it comes to victims of terrorism.

Cross-border issues may add a layer of complexity to the measures required to protect victims' access to justice and/or compensation. For example, the location of the trial proceedings and its impact on the interests and involvement of the victim, as well as the

⁹⁰ Victim Support Europe, *Challenges and solutions with respect to the provision of support to victims of crime in a cross-border situation – report*, 2017, available at: <http://victimsupport.eu/activeapp/wp-content/uploads/2017/02/VSE-Cross-border-Victimisation-Report.pdf>

chances for a successful trial, are factors that should be taken into account when applying the *aut dedere aut judicare*⁹¹ principle in the cross-border context. International cooperation is a pre-requisite for effective transnational proceedings, and concerted international efforts are necessary to ensure the protection of victims' rights in such cases⁹².

As with any transnational offence, effective investigation and prosecution of acts of terrorism frequently require the cooperation of national judicial and law enforcement agencies in multiple States. Additionally, an aspect that is often overlooked is that an increasing number of victims of acts of terrorism are foreign citizens with limited links to the territories where the offenses occur. Similarly, family members entitled to victim support services are frequently located in different countries⁹³. Moreover, the cross-border element needs to be observed as a two-fold problem. Namely, States are faced with the question of how to support their own nationals who are victimised abroad, and how to support foreign nationals who get victimised in their territory. All these considerations add a layer of complexity to how services catered to victims of terrorism are provided.

The findings of the VSE study point to the difficulties in referring to cross-border victims of crime. Some of those difficulties are reflected as follows⁹⁴:

- **Getting information**

Foreign victims need as much or more information on the event as national victims, in particular taken into consideration language barriers.

- **Consideration**

Experience shows that foreign victims are forgotten when victims are considered by the local authorities, services or the media⁹⁵. One cause of the problem can be seen in the failure to initially collect information, but another part of the problem may be just pure neglect. Nonetheless, the result is that foreign victims are not being contacted for memorial events, or considered in similar activities, even though they are as much victims as the nationals of the country.

- **Access to justice**

Oftentimes, procedures for compensation are initiated at the request of the interested party, and are connected to formal legal requirements which require knowledge of the language and the legal system. Victims are usually not given any concessions in this regard, in particular with respect to failure to consider the

⁹¹ The *aut dedere aut judicare* principle was first explained by Hugo Grotius in the following terms: "When appealed to, a State should either punish the guilty person as he deserves, or it should entrust him to the discretion of the party making the appeal". See Grotius H., *De Jure Belli ac Pacis*, Book II, chapter XXI, section IV (English translation by Francis W. Kelsey (Oxford/London: Clarendon Press/Humphrey Milford, 1925), pp. 527–529 at 527). For more on the principle and its international repercussions, see e.g. International Law Commission, *The obligation to extradite or prosecute (aut dedere aut judicare) – Final Report*, 2014, available at: http://legal.un.org/ilc/texts/instruments/english/reports/7_6_2014.pdf

⁹² Victim Support Europe, *Challenges and solutions with respect to the provision of support to victims of crime in a cross-border situation – report*, 2017, available at: <http://victimsupport.eu/activeapp/wp-content/uploads/2017/02/VSE-Cross-border-Victimisation-Report.pdf>

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ For example, on the occasion of commemorating the anniversary of Brussels attacks, on 22 March of 2017, the Belgian organizers have not included any of the foreign victims on their list of invitees.

additional time needed to provide translations, when there are strict preclusive time-limits to be respected.

- **Right to long term support**

As cross-border victims are being more importantly affected by the modern take on terrorism, it is important to consider long-term tools for supporting those victims in their specific needs.

- b. **Persons with prior mental health problems**

People who experienced trauma or have had mental health problems prior to the attack will be at an increased risk of further trauma and mental health problems if exposed to victimisation. 'Experiencing prior trauma is a risk factor, which is also revealed by research that shows prior terrorist attacks make victims more vulnerable in the future, even when they showed resilience and did not develop psychological complaints⁹⁶.'

- c. **Women**

Women may suffer from terrorism differently than men. Even if they do not numerically exceed men as victims killed by terrorism, the atrocities of terrorism are often gendered in a way that views women as the innocent victims of terrorism⁹⁷.

Other than that, women can be differently victimised by terrorism in two principal ways. Firstly, women are more likely to suffer from some short term and long term psychological consequences of a terror attack⁹⁸.

Secondly, women may be exposed to different forms of terrorist victimisation. Namely, sexual violence against women has for a long time been used as a weapon of war. More recently, reports indicate that rape is being used as a tool of terrorist threat against groups of population. In particular, reports of terrorist groups, such as Boko Haram and ISIS use trafficking and sex slavery as an income-generating business, while the systematic rape of non-Muslims is also used as an intimidation technique. Many women are subjected to repeated rape and are forced to perform domestic labour. Brutality is commonplace⁹⁹. While in Europe women have been generally safe from such forms of terrorist violence, the reports of mass sexual harassment in Cologne on New Year's Eve 2016 were interpreted by some as an intimidation technique by potential terrorists¹⁰⁰, while some others saw it as a distraction

⁹⁶ Letschert R., Staiger I., Pemberton A. (eds.), *Assisting Victims of Terrorism: Towards a European Standard of Justice*, Springer, p. 135 and references contained therein.

⁹⁷ Poloni-Staudinger L. and Orbals C. D., *Terrorism and Violent Conflict, Women's Agency, Leadership, and Responses*, 2013.

⁹⁸ Letschert R., Staiger I., Pemberton A. (eds.), *Assisting Victims of Terrorism: Towards a European Standard of Justice*, Springer, p. 135 and references contained therein.

⁹⁹ See e.g. United Nations Population Fund, *Emerging from slavery, Yazidi women struggle to recover*, 8 August 2016, available at: <http://www.unfpa.org/news/emerging-slavery-yazidi-women-struggle-recover>. See also, Independent, *Women who are captured by Isis and kept as slaves endure more than just sexual violence*, 29 November 2016, available at: <http://www.independent.co.uk/news/world/middle-east/isis-sex-slaves-lamiya-aji-bashar-nadia-murad-sinjar-yazidi-genocide-sexual-violence-rape-sakharov-a7445151.html>.

¹⁰⁰ See e.g. EMMA, *Frauen berichten EMMA vom Terror* (in German only), 4 January 2016, available at: <http://www.emma.de/artikel/koeln-frauen-berichten-emma-vom-terror-331129>.

method for the police to look elsewhere while terrorist attacks might have been in preparation.

d. Children

The impact and required response after terrorist attacks on children and youths has gone largely unstudied. Nonetheless, a wealth of testimonies and reports point to the difficulties experienced by children in the aftermath of a terrorist attack. Children and adolescents, regardless of whether they have been directly involved in a terrorist attack or not, are particularly vulnerable and often overlooked as a group.

Children and young people's reactions to victimisation in general and terrorism in particular do have some peculiarities. Children in the school-going age groups are at increased risks of developing psychological sequelae. Children react in different ways according to their age. Children who risk experiencing mental health difficulties after a disaster or act of terrorism include children who are near to or actual witnesses of the event (in particular those injured or those who believed they would die), those who have lost loved ones as a result, and even the children who merely live in the affected community or watch coverage of the event on television¹⁰¹.

The reaction of the child's parents or carers shortly after the event and the extent to which the parents can support their child is very important. After a terrorist attack, parents will not always acknowledge traumatic symptoms in their children, and often do not know how to talk with their child about the events and can find it very hard to support their child¹⁰². Some schools in Brussels have gone under lockdown immediately after the attacks. The psychological impact of being locked in school or being close to a manhunt after an attack can be significant in children as was shown after the attacks in Brussels or Boston. Many reports were made of children who had trouble sleeping or did not want to go to school anymore.

Children, regardless of whether they have been directly involved in a terrorist attack or not, are particularly vulnerable to the far-reaching impact of terrorism and disasters. If children are direct victims, first responders will need to have necessary skills to handle specific paediatric issues in emergency response and familiar with paediatric protocols. For example, children are more likely to dehydrate and go into shock¹⁰³.

In addition, it is also important to note that, with their increasing exposure to television and social media, this has had a significant impact on children's emotional responses with a significant clinical impact¹⁰⁴.

¹⁰¹ American Psychological Association, *The Impact of Terrorism and Disasters on Children*, undated, available at: <http://www.apa.org/about/gr/issues/cyf/disaster.aspx>.

¹⁰² Letschert R., Staiger I., Pemberton A. (eds.), *Assisting Victims of Terrorism: Towards a European Standard of Justice*, Springer, p. 136 and references contained therein.

¹⁰³ Redlener I., *Children as potential targets of terrorism – Conference report*, 2015, available at: http://ncdp.columbia.edu/custom-content/uploads/2015/01/REPORT_Children_Targets_Terrorism_06.pdf

¹⁰⁴ Fremont W. P., Pataki C., Beresin E. V., *The Impact of Terrorism on Children and Adolescents: Terror in the Skies, Terror on Television*, Child Adolescent Psychiatric Clinics of North America, 2005, available at: https://www.researchgate.net/profile/Caroly_Pataki/publication/50395328_Transforming_Residency_Training_A_Case_Study/links/56b4d2f808ae5ad360576243/Transforming-Residency-Training-A-Case-Study.pdf.

e. Cultural differences

Culture plays a significant role in the description of terrorism of the 21st century. Some research indicates that cultural values and norms that promote rigid thinking—fatalistic beliefs, strict gender roles, and greater tightness — are related to a greater number of terrorist attacks or fatalities.

Apart from this general observation, in practice, information concerning terrorist threats may be more easily misinterpreted by those not sufficiently fluent in the language, this lack of fluency also limiting the possibilities for asking follow-up information. Asylum seekers can experience elevated post-traumatic reactions to terrorist attacks¹⁰⁵.

From the perspective of the victims, any response mechanisms must take into account the cultural and religious needs of different groups. This might mean being aware of sensitivities around how to speak to different ages or genders, whether genders are treated differently in any way, different needs for prayers, for handling the deceased according to religious custom etc.

As with a person's perception of terrorism, a person's cultural background can influence how they are affected by terrorism, how they perceive their situation and how they perceive authorities (including trust in those authorities) trying to help them.

Moreover, perceptions or realities about the origins of terrorists can result in retaliation or even terrorist attacks against groups from which terrorists are perceived to come from, as was experienced in London in June 2017.

In such an environment of cultural tension, the alleged threat of terrorism has been frequently used in the recent years to advocate against immigration and refugees, in the midst of a humanitarian crisis. In that vein, some political streams, in Europe and globally, have in recent years used the threat of terrorism to justify an anti-immigration stance and feed cultural tensions. This in turn affects the cultural perception of terrorists and terrorism, and can harm communities and inter-cultural relationships.

In response to anti-terrorist anti-immigration initiatives from Hungary, for example, the European Parliament condoned the 'serious deterioration of the rule of law, democracy and fundamental rights of migrants, asylum seekers and refugees'. The Parliament considered the policies introduced under the shield of fight against terrorism, accompanied by anti-immigrant advertising campaigns by the government, to be highly misleading and biased, and in combination with governmental action affecting educational institutions and civil society organisations, constituted a serious breach of the values referred to in Article 2 of the TEU¹⁰⁶.

¹⁰⁵ Kinzie et al

¹⁰⁶ European Parliament, Resolution of 17 May 2017 on the situation on Hungary (2017/2656(RSP))

Support for children and youth in the aftermath of a terrorist attack – a case study

THE IMPACT OF TERRORISM ON CHILDREN AND YOUTH

It is clear that the general public suffers considerably after a terrorist attack. Studies conducted within the first year after a terrorist attack found the occurrence of Post-traumatic stress disorder (PTSD) is between 9 to 15% of the general population¹⁰⁷. Studies have shown that impact of these events often go beyond distress as other recent studies described that reactions of anger and political intolerance¹⁰⁸, and even changes in patterns of language use, social behaviour, and cognitive processing¹⁰⁹ are observed. Terrorist attacks can constitute both a collective trauma for the population at large and an individual trauma for a small proportion of the population.

The impact and required response after terrorist attacks on children and youths has gone largely unstudied. Nonetheless, a wealth of testimonies and reports point to the difficulties experienced by children in the aftermath of a terrorist attack. Children and adolescents are particularly vulnerable and an often overlooked group.

In the aftermath of the Brussels attacks in Belgium, the security level was heightened to level 4 – meaning 'the security situation is estimated to be very serious with a serious and very imminent threat'. In practice, it meant that all schools and public services were closed down and public transport was stopped. On the 22nd of March, schools were closed and many children were locked inside for the day¹¹⁰. The following days, the Belgian capital went in lockdown with schools remaining closed. Children had to stay home from school, often with their parents who were unable to find childcare in such short notice. Belgian news

channels reported unceasingly on the impact on the schooling system and showed stories of some parents who were standing with their children in front of closed schools. The following days and weeks, the Belgian 'youth telephone Awel' received an increase in calls from children who were scared after the terrorist attacks¹¹¹.

INFORMATION

It was the children's television channels that were the first point of information for many children, youths and parents. The Flemish television channel – KETNET – dedicated its children's news to the Brussels attacks¹¹². Their approach was nuanced, child-friendly and informative, providing important tools for children (and parents) to cope with the events by including children's questions on the events itself, their safety and many other elements of concern for children in the aftermath of the largest terrorist attack in Belgium. The kids' news were applauded by professionals and even used as a tool of training for crisis support providers.

The following days news outlets and magazines included information on the reactions of children and youths to terrorist attacks in their publications. In this way, many more people found tools to talk to children about the attacks¹¹³.

EDUCATION AND SUPPORT

The GO! Education of the Flemish community took the initiative to proactively provide teachers and schools with the necessary information and support materials to address the Brussels attacks in their schools. Teachers and staff of the Flemish education system were provided with clear information on the terrorist threat, on practical implications of the heightened security measures and tools to communicate with and support children¹¹⁴. Teachers and educational staff had general material to organise discussions, classes and support measures with the children in their schools. For instance, a guide for schools and parents to work with children on Terrorism and social media was disseminated to all educators. In

¹⁰⁷ E.g. Miguel-Tobal J. J., Cano-Vindel A., Gonzalez-Ordi H., Iruarrizaga, I., Rudenstine S., Vlahov D. and Galea S. *PTSD and depression after the Madrid March 11 train bombings*, Journal of Traumatic Stress, 19(1), 69-80, 2006.

¹⁰⁸ Skitka L. J., Bauman C. W. and Mullen E., *Political tolerance and coming to psychological closure following the September 11, 2001, terrorist attacks: An integrative approach*, Personality and Social Psychology Bulletin, 30(6), 743-756, 2004.

¹⁰⁹ Cohn M. A., Mehl M. R. and Pennebaker J. W., *Linguistic markers of psychological change surrounding September 11, 2001*, Psychological science, 15(10), 687-693, 2004.

¹¹⁰ Flanders News, *Lock-down in Brussels*, 22 March 2016, available at: http://deredactie.be/cm/vrtnieuws.english/News/1.2_608000

¹¹¹ Bruzz, Jongeren hebben minder vragen bij aanslagen Brussel dan Parijs (in Dutch only), 16 February 2017, available at:

<http://www.bruzz.be/nl/actua/jongeren-hebben-minder-vragen-bij-aanslagen-brussel-dan-parijs>

¹¹² Ketnet, edition of 22 March 2016 (video, in Dutch only) <https://www.ketnet.be/kijken/karrewiet/22-maart-2016-extra-uitzending>.

¹¹³ Knack, *Hoe praat je met je kind over terreur?*, 22 March 2016, <http://www.knack.be/nieuws/belgie/hoe-praat-je-met-je-kind-over-terreur/article-normal-681457.html>

¹¹⁴ Go Pro!, *Hoe omgaan met terreurdreiging?* (in Dutch only), undated, <http://pro.g-o.be/over-go/actuele-themas/hoe-omgaan-met-terreurdreiging>

addition, the GO! Team provided tailored advice and support to teachers and educational staff. The organised age-sensitive group discussions and class activities offered a platform for children to share their experiences, fears and ideas for the future. One of the schools of the GO! located in the Brussels region developed a moving video as their response to the terrorist attacks¹¹⁵. The strength of these school initiatives lies in its opportunity for prevention and assessment of the psychosocial needs of children that were affected.

Parents are the primary partners in promoting the psychosocial well-being of children after terrorist attacks. Research shows the close association of parental and children's psychological symptoms after terrorist attacks¹¹⁶. In Australia, a successful programme is being implemented focusing on the parents' and families' response to disasters. During a two-hour seminar – developed by Dr Cobham, Professor Brett McDermott and PPP founder Professor Sanders – parents of children in affected areas are offered 'emotional support, information and reassurance'¹¹⁷. Major disasters elicit different emotional and behavioural responses in children and adolescents such as sleep difficulties and nightmares, anxiousness, fearfulness, regression, sadness or behavioural problems. During the seminar, parents are taught positive reactions to these responses. Furthermore, parents are given guidance on

actions to be taken when additional symptoms arise or when parents have ongoing concerns with their children.

IDENTIFICATION AND TREATMENT

32 people lost their lives on March the 22nd, while hundreds more were injured and thousands affected. Hundreds of children lost one of their loved ones in these attacks. Testimonies of the victims of the Brussels attacks show how children are affected and in some cases even face serious psychological problems. The assessment and treatment of these children is important. After disasters, 10% of children who do not receive professional psychological intervention will develop persistent symptoms of post-traumatic stress¹¹⁸.

The Flemish government has launched an initiative of instating trauma specialists to schools in all provinces to assess and support young traumatised refugees¹¹⁹. Similar needs exist for children and youth affected by the terrorist attacks in Brussels. In 2017, many of the children who were victims of the 2016 attacks are in (sometimes desperate) need of specialised psychological and psychiatric care.

¹¹⁵ Audiovisuele Vorming, Ik hoop (video in Dutch only), 20 November 2015, available at: <https://www.youtube.com/watch?v=IficapCAqC4&t=30s>

¹¹⁶ Koplewicz H. S., Vogel J. M., Solanto M. V., Morrissey R. F., Alonso C. M., Abikoff H. and Novick R. M. *Child and parent response to the 1993 World Trade Center bombing*, Journal of Traumatic Stress, 15(1), 77-85, 2002.

¹¹⁷ Triple P, *Remember children's emotional needs after natural disasters, says expert*, 9 November

2013, available at: [http://www.triplep.net/glo-en/find-out-about-triple-p/news/remember-childrens-emotional-needs-after-natural-disasters-says-expert./](http://www.triplep.net/glo-en/find-out-about-triple-p/news/remember-childrens-emotional-needs-after-natural-disasters-says-expert/)

¹¹⁸ Ibid.

¹¹⁹ Standard, *Mobiele traumateams voor jonge vluchtelingen* (in Dutch only), 19 January 2016, available at: http://www.standaard.be/cnt/dmf20160118_02075608

3. INTERNATIONAL RESPONSE TO NEEDS OF VICTIMS OF TERRORISM

KEY FINDINGS

- The United Nations have taken significant steps to address the issues of combatting terrorism, but also addressing victims' needs, including the appointment of the special rapporteur on the promotion and protection of human rights and fundamental freedoms, while countering terrorism and set up the Counter-Terrorism Implementation Task Force (CTITF) and its working group in charge of Supporting and Highlighting the Victims of Terrorism.
- In 2011, a group of UN Member States launched the Global Counter-Terrorism Forum (GCTF), an informal, apolitical, multilateral counterterrorism platform, which takes particular interest in victims of terrorism.
- The Organisation for Security and Cooperation in Europe's (OSCE) action is predominantly focused on combatting terrorism, but it does appreciate the needs of victims too. OSCE's Permanent Council, as well as the Office for Democratic Institutions and Human Rights have been involved in developing the response to the needs and rights of victims of terrorism.
- Council of Europe (CoE), as the European human rights watchdog, has been leading field in observance of the rights of victims. In 2001, the CoE set up the Multidisciplinary Group on International Action Against Terrorism, which later on transformed into the Committee of Experts on Terrorism (CODEXTER), which has the task to facilitate the exchange of best practices on compensation schemes for victims of terrorism. In 2006, the CoE Parliamentary Assembly (PACE) adopted the Recommendation on assistance to crime victims.
- In 1999, the European Commission adopted the Communication on Crime victims in the European Union, while the EU Compensation Directive was adopted in 2004, ensuring compensation for all cross-border victims of crimes. In 2012 the Victims' Rights Directive was adopted, setting a comprehensive framework for the rights of all victims of all crimes in European Union.
- In the wake of the Paris attacks, the European Commission in December 2015 adopted a proposal for the Directive on Combating Terrorism, on which agreement was reached with the European Parliament and the Council in 2017, addressing certain aspects of needs of victims of terrorism.

Acts of terrorism constitute one of the most serious violations of the universal values of human dignity, freedom, equality and solidarity, and enjoyment of human rights and fundamental freedoms on which the Union is founded. They also represent one of the most serious attacks on democracy and the rule of law, principles which are common to the Member States and on which the Union is based¹²⁰.

One of the primary duties of the state is to protect its citizens from criminal activities. In responding to that duty, the state apparatus holds a monopoly over defining crime,

¹²⁰ Directive (EU) 2017/541 of the European Parliament and of the Council on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA, , available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32017L0541>

responding to it and, consequently, sanctioning it. Therefore, victims of crime rely on state intervention not only to protect them from crime, but also to ensure a mechanism that will respond to their needs in those cases where prevention measures fail and a crime indeed happens.

Against this background, a democratic society has an obligation not only to keep their citizens safe, but also to alleviate the effects of any crime, including the adverse consequences of victimisation. International institutions have sought to achieve this through two routes – by introducing overarching norms applicable to all victims of crime as well as adopting instruments specifically focused on certain issues or groups of such terrorism and the victims of such attacks.

With respect to overarching frameworks, an important starting point has been human rights protections, which have been built around the obligation of States to respect, protect and fulfil human rights. Consequently, many provisions of general human rights instruments, such as the 1966 UN Covenant on Civil and Political and Covenant on Economic, Social and Cultural Rights or the 1950 European Convention on Human Rights or the EU Charter of Fundamental Rights, have as one of their main aims the protection of individuals. The protection of the right to life, prohibition of torture, inhuman or degrading treatment or punishment or protection of property rights, as well as the procedural guarantees in relation thereto, are all good examples of rights designed to protect victims.

Whilst recognising the importance of these instruments, it was nevertheless understood that specific issues relating to victimisation were not sufficiently addressed by them. In 1985, 'cognisant that millions of people throughout the world suffer harm as a result of crime and the abuse of power and that the rights of these victims have not been adequately recognised' the United Nations (UN) adopted the Basic Principles of Justice for Victims of Crime and Abuse of Power¹²¹.

At around the same time, the Council of Europe, in its capacity as the European human rights watchdog, adopted Recommendation R(85) 11 on the position of the victim in the framework of criminal law and procedure.¹²² This was followed just over ten years later by Recommendation (2006)8 on assistance to crime victims¹²³.

The Recommendation emphasised that European countries should ensure the effective recognition of, and respect for, the rights of victims with regard to their human rights. They should in particular respect the security, dignity, private and family life of victims and recognise the negative effects of crime on victims. To that effect, European countries should identify and support measures to alleviate the negative effects of crime and ensure that victims are assisted in all aspects of their rehabilitation, in the community, at home and in the workplace.

It was against this background that the European Union initially adopted a 2001 Framework Decision on the standing of victims in criminal proceedings.¹²⁴ In June 2011, the Council of the European Union passed a Resolution on a **roadmap for strengthening the rights and protection of victims**, in particular in criminal proceedings. It is known as the "Budapest

¹²¹ UN GA, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 29 November 1985; UN Doc. A/RES/40/34

¹²² Recommendation no. R (85) 11 of the Committee of Ministers to Member states on the position of the victim in the framework of criminal law and procedure

¹²³ Recommendation Rec(2006) 8 of the Committee of Ministers to member states on assistance to crime victims, Adopted by the Committee of Ministers on 14 June 2006 at the 967th meeting of the Ministers' Deputies

¹²⁴ Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings (2001/220/JHA)

Roadmap". The Annex to the Budapest Roadmap set out a list of actions which should be taken to develop and protect victims' rights in the European Union¹²⁵.

In 2012, the Roadmap was followed by the adoption of a Directive imposing detailed obligations on Member States and a more robust legislative regime compared to the Framework Decision.¹²⁶ This Directive aims to ensure that all victims of crime and their family members are recognised and treated in a respectful and non-discriminatory manner based on an individual approach tailored to the victim's needs. This was complemented by the adoption of the Directive on combating terrorism.

In complement to these international instruments on all victims of crime, international bodies have also carried out specific actions relating to terrorism and victims of terrorism.

3.1. The United Nations

The UN has three main responsibilities in the field of protecting the victims of terrorism: 1) making the voices of victims heard; 2) ensuring that their human rights are fully respected; and 3) recognizing that victims of terrorism are the strongest, most sincere and most convincing allies in preventing fellow citizens from joining terrorist groups and violent extremists¹²⁷.

Many of the UN instruments, in particular those of the General Assembly and the Security Council, concerning the global response to terrorist threat, recognise 'the role that victims of terrorism in all its forms and manifestations can play, including in countering the appeal of terrorism, and emphasizing the need to promote international solidarity in support of victims of terrorism as well as ensure that victims of terrorism are treated with dignity and respect¹²⁸'. This is supported by further work, particularly of the Secretary General, UNODC and the High Commissioner on Human Rights, on recognising and addressing the particular needs of victims of terrorism.

In the 2005 World Summit Outcome¹²⁹, the UN stressed 'the importance of assisting victims of terrorism and of providing them and their families with support to cope with their loss and their grief.' That same year, the Secretary General set up the Counter-Terrorism Implementation Task Force (CTITF)¹³⁰. The CTITF organises its work through 11 working groups, one of which is assigned to deal with Supporting and Highlighting the Victims of Terrorism¹³¹.

¹²⁵ From http://eujusticia.net/images/uploads/pdf/Victims_Directive_36_page.pdf

¹²⁶ Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime

¹²⁷ Statement of Mr. Jeffrey Feltman, Under-Secretary General for Political Affairs, Chairman of the Counter-Terrorism Implementation Task Force and Executive Director of the United Nations Counter-Terrorism Centre at the UN Conference on Human Rights of Victims of Terrorism, February 2016, as per the Report from the Conference, p. 6, available at:

https://www.un.org/counterterrorism/ctitf/sites/www.un.org.counterterrorism.ctitf/files/FINAL%20Report%20of%20the%20Conference_0.pdf

¹²⁸ Resolution adopted by the General Assembly on 29 June 2012 66/282 on the United Nations Global Counter-Terrorism Strategy Review (A/RES/66/282)

¹²⁹ General Assembly resolution 60/1

¹³⁰ CTITF was established by the Secretary-General in 2005 and endorsed by the General Assembly through the United Nations Global Counter-Terrorism Strategy. Its mandate is to strengthen coordination and coherence of counter-terrorism efforts of the United Nations system. The Task Force consists of 38 international entities which by virtue of their work, have a stake in multilateral counter-terrorism efforts. Each entity makes contributions consistent with its own mandate. More information available at: <https://www.un.org/counterterrorism/ctitf/en/about-task-force>

¹³¹ CTITF, Supporting and Highlighting Victims of Terrorism, undated, available at: <https://www.un.org/counterterrorism/ctitf/en/supporting-and-highlighting-victims-terrorism>

Moreover, also in 2005, the Commission on Human Rights decided to appoint a special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism¹³². The Special Rapporteur reaffirmed that victims of terrorism and their families have a human right to an effective remedy, and the corresponding State obligations include a duty to exclude any possibility of impunity for acts of terrorism.¹³³ The Special Rapporteur is committed to ensuring that proportionate attention is paid to the rights of direct and indirect victims of acts of terrorism, and the duties of States to actual and potential victims¹³⁴.

In 2006, the UN General Assembly (UNGA) adopted the Global Counter Terrorism Strategy, subsequently reviewing it in 2012¹³⁵. The strategy recognises the value of national systems of victim support and the role of civil society in this regard. However, it fails to deal with the needs of victims in a more substantive and structured manner, only staying focused on the need to combat terrorism.

In 2008, the UN Secretary General (UNSG) convened a Symposium on supporting victims of terrorism and issued an ensuing report on Supporting the victims of terrorism¹³⁶, recommending, inter alia, the establishment of a virtual communication hub; strengthening legal instruments for the protection of victims' rights; establishing adequate health services; providing financial support; improving the capacity of the UN to provide support; engaging in a global awareness raising campaign to support victims; and improving media coverage.

In 2009, the UNGA adopted a resolution on the Protection of human rights and fundamental freedoms while countering terrorism¹³⁷. However, somewhat falling short of its title, the resolution only observes the (very important) gender aspect of protection of human rights in the combat against terrorism. Even within this limited scope, the resolution only recommends that redress is provided and all forms of gendered harms are recognised¹³⁸.

At a Ministerial Plenary Meeting in New York on the 22nd of September 2011, a group of UN Member States launched the **Global Counter-Terrorism Forum (GCTF)**. GCTF is an informal, apolitical, multilateral counterterrorism platform that has strengthened the international architecture for addressing 21st century terrorism. Central to the Forum's overarching mission is the promotion of a strategic, long-term approach to counter terrorism and the violent extremist ideologies that underpin it. As an action-oriented forum, the GCTF holds regular meetings focused on producing framework documents (good practices and memoranda) and the necessary materials and tools for policy-makers and practitioners to develop CT civilian capabilities, national strategies, action plans and training modules. GCTF currently has 30 members (including the EU) and cooperates in various ways with many other partners and stakeholders, including the UN, CoE and OSCE.

¹³² Resolution 2005/80

¹³³ Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin, UN Doc. E/CN.4/2006/98, 28 December 2005, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G05/168/84/PDF/G0516884.pdf?OpenElement>

¹³⁴ Promotion and protection of human rights and fundamental freedoms while countering terrorism, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, submitted in accordance with Assembly resolution 65/221 and Human Rights Council resolution 15/15, 18 August 2011, UN Doc. A/66/310.

¹³⁵ Consolidated strategy available at: <https://www.un.org/counterterrorism/ctitf/en/un-global-counter-terrorism-strategy#poa4>

¹³⁶ http://www.un.org/en/terrorism/ctitf/pdfs/un_report_supporting_victims_terrorism.pdf

¹³⁷ UN General Assembly, Resolution adopted by the General Assembly on 18 December 2008 on Protection of human rights and fundamental freedoms while countering terrorism, UN Doc. A/RES/63/185, 3 March 2009, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N08/481/89/PDF/N0848189.pdf?OpenElement>

¹³⁸ Ibid. Para 53(c).

One of the key goals of the Forum is to support and catalyse implementation of the United Nations (UN) Global Counter-Terrorism Strategy, reviewed in June 2016, and the UN CT framework more broadly, including the UN Secretary-General's Plan of Action to Prevent Violent Extremism presented to the UN General Assembly in January 2016. In pursuance of this goal, the GCTF works closely with UN bodies, and with other relevant international and regional organisations to reinforce, complement, and support multilateral CT and CVE efforts¹³⁹.

While the GCTF focuses on combating terrorism and its causes, it nevertheless directs focus on victims of terrorism. The day it was established, the GCTF adopted the Cairo Declaration on Counterterrorism and the Rule of Law: Effective Counterterrorism Practice in the Criminal Justice Sector, in which it calls GCTF members to "develop good practices for an effective and rule of law-based criminal justice sector response to terrorism¹⁴⁰." This was followed by a conference on victims of terrorism in Madrid in 2012, where the Madrid Memorandum on Good Practices for Assistance to Victims of Terrorism immediately after the Attack and in Criminal Proceedings¹⁴¹, and the Madrid Declaration on Victims of Terrorism, were adopted¹⁴².

The UN Counter-Terrorism Centre (UNCCT) was established in 2011 within the CTITF Office, in the Department of Political Affairs to assist in addressing capacity-building needs of Member States, while strengthening United Nations' counter-terrorism expertise.

The UNCCT's objectives aim to 'buttress the implementation of the pillars of the UN Global Counter-Terrorism Strategy in a comprehensive and integrated manner through the development of national and regional Counter-Terrorism Strategy implementation plans'. It also carries out work to foster 'international counter-terrorism cooperation and promote collaboration between national, regional and international counter-terrorism centres and organisations'; finally, the UNCCT 'serves a critical role in building capacity of Member States to strengthen their counter-terrorism capability¹⁴³.'

An additional outcome of the Strategy is the setting-up of the UN Victims of Terrorism Support Portal. It is operated by the CTITF and has for its objectives to:

- Serve as a resource hub for information on issues related to victims of terrorism;
- Contribute to the rehabilitation of victims of terrorism by providing victims and their families a resource on rehabilitation; and
- Express international solidarity with victims of terrorism and raise awareness of national and international efforts undertaken to support them, in order to highlight importance of including victims in all areas of counter terrorism work¹⁴⁴.

¹³⁹ GTCF, Background and Mission, undated, available at: <https://www.thegctf.org/About-us/Background-and-Mission>

¹⁴⁰ GTCF, Cairo Declaration on Counterterrorism and the Rule of Law: Effective Counterterrorism Practice in the Criminal Justice Sector, 2011, available at: <https://toolkit.thegctf.org/sites/default/files/document-sets/source-document-uploads/2016-08/Cairo-Declaration.pdf>

¹⁴¹ Madrid Memorandum on Good Practices for Assistance to Victims of Terrorism Immediately after the Attack and in Criminal Proceedings, available at: <https://www.thegctf.org/Portals/1/Documents/Framework%20Documents/A/GCTF-Madrid-Memorandum-ENG.pdf>

¹⁴² Madrid Declaration on Victims of Terrorism, available at: <https://www.thegctf.org/Portals/1/Documents/Framework%20Documents/A/GCTF-Madrid-Declaration-ENG.pdf>

¹⁴³ UNCCT, Vision, undated, available at: <https://www.un.org/counterterrorism/ctitf/en/uncct/uncct-vision>

¹⁴⁴ UN Victims of Terrorism Support Portal, undated, available at: <http://www.un.org/victimsofterrorism/en/about/support-portal>

In 2013, the UNGA¹⁴⁵ requested the UNODC to 'continue to enhance specialised legal knowledge through the preparation of best practices, in close coordination with Member States, on assistance to and support for victims of terrorism, including the role of victims within the criminal justice framework'. UNODC responded to the recommendation and compiled Good Practices in Supporting Victims of Terrorism within the Criminal Justice Framework¹⁴⁶, singling out the issues of access to justice, legal advice, representation and participation; information, personal privacy and dealing with the media; and restitution, reparation and financial compensation.

3.2. The Organisation for Security and Cooperation in Europe

Having security in Europe at the heart of the organisation's goal, the Organisation for Security and Cooperation in Europe (OSCE) has for its mission to combat terrorism. These efforts are guided by the **OSCE Consolidated Framework for the Fight against Terrorism** which highlights operational principles and identifies the strategic focus of future OSCE counter-terrorism activities.

Activities are run to promote the implementation of the international legal framework against terrorism, to strengthen travel document security, to counter violent extremism and radicalisation that lead to terrorism, to counter the use of the Internet for terrorist purposes and help protect critical energy infrastructures¹⁴⁷.

Whilst most OSCE action on counter terrorism are focused on perpetrators, the recognition of victims' rights and needs and the necessity of intergovernmental, inter-institutional cooperation and cooperation with the non-governmental sector has figured prominently in many of OSCE's initiatives.

In 2004, the **OSCE Permanent Council** recognised that acts of terrorism seriously impair the enjoyment of human rights and identified the need to strengthen solidarity among participating States for the victims of terrorism¹⁴⁸. The Permanent Council invited the States to explore the possibility of introducing or enhancing appropriate measures, subject to domestic legislation, for support, including financial support, to victims of terrorism and their families. The Permanent Council also encouraged the States to co-operate with relevant institutions and civil society in expressing solidarity with and providing support for the victims of terrorism and their families.

In 2004, the **Office for Democratic Institutions and Human Rights (ODIHR)** organised a Technical Workshop on Solidarity with Victims of Terrorism, and in relation therewith prepared a Background paper on Solidarity with Victims of Terrorism¹⁴⁹. The paper emphasised, among others, the necessity for the immediate and emergency and long-term support, specialist support and compensation.

In 2009, the Ministerial Council reaffirmed the UN Strategy and the need to comply with relevant provisions of international human rights, humanitarian and refugee law in the fight against terrorism¹⁵⁰.

¹⁴⁵ UNGA resolution 68/187 of 18 December 2013

¹⁴⁶ UNODC Good Practices in Supporting Victims of Terrorism within the Criminal Justice Framework.

¹⁴⁷ OSCE, Countering terrorism, undated, available at: <http://www.osce.org/secretariat/terrorism>

¹⁴⁸ Decision No. 618 of 1 July 2004 <http://www.osce.org/pc/35030?download=true>

¹⁴⁹ OSCE, Background Paper on Solidarity with Victims of Terrorism, 2005, available at: <http://www.osce.org/odihr/19356?download=true>

¹⁵⁰ Decision no. 3/09 further measures to support and promote the international legal framework against terrorism, 2 December 2009, available at: <http://www.osce.org/cio/40693?download=true>

In 2011, ODIHR published their **Human Rights and Anti-terrorism Programme**, with the aim of Assisting participating States to protect human rights while countering terrorism. The programme puts an emphasis on the role of the civil society in the protection of the victims of terrorism and invites to the development of background research papers on key issues, such as the solidarity with victims of terrorism and human rights¹⁵¹.

3.3. The Council of Europe

The Council of Europe (CoE) prides itself in being the human rights watchdog of Europe. It encompasses a broad European membership of 47 member States, and an intensive cooperation with the states of the Mediterranean region. With human rights at its core, the CoE is certainly the international organisation that has most clearly prioritised the needs of victims of terrorism¹⁵².

Already in 1977, the CoE adopted the **European Convention on the Suppression of Terrorism**¹⁵³. However, the instrument only dealt with various counter-terrorism measures, while the rights or needs of victims have not been recognised. Nonetheless, the need to at least ensure compensation for victims of all violent crimes was recognised by means of a resolution that same year¹⁵⁴. This approach was strengthened with the adoption of the Convention on the Compensation of Victims of Violent Crimes in 1983¹⁵⁵.

In 1999, the **CoE Parliamentary Assembly (PACE)** noted that terrorism represents a serious threat to democratic society, whose moral and social fibre is affected by it and reiterated its position that terrorist acts cannot have any justification whatsoever¹⁵⁶. In response to the raising terrorist threat, PACE recommended to the CoE member States to ensure fuller protection for victims of terrorist acts to both domestic and international systems.

In 2001, following the 9/11 attacks, the CoE set up the **Multidisciplinary Group on International Action Against Terrorism**. By 2003, this transformed into the **Committee of Experts on Terrorism (CODEXTER)**. CODEXTER has since made the facilitation of the exchange of best practices on compensation schemes for victims of terrorism a priority, including through the work of the Group of specialists for assistance to victims, which has as its priority, the assistance to victims of terrorism.

Still focused on the victims, the Committee of Ministers of the CoE in 2002 adopted the **Guidelines on human rights and the fight against terrorism**¹⁵⁷, which re-emphasise the right of victims of terrorism to compensation, followed by specific Guidelines on the protection

¹⁵¹ OSCE Office for Democratic Institutions and Human Rights, Human Rights and Anti-terrorism Programme, Assisting participating States to protect human rights while countering terrorism, undated, available at: <http://www.un.org/en/sc/ctc/specialmeetings/2011/docs/osce-rights-and-antiterrorism.pdf>

¹⁵² Victims of Terrorism: A Comparative and Interdisciplinary Study Edited by Orla Lynch, Javier Argomaniz, 2014, p. 126.

¹⁵³ Adopted on 27 January 1977, available at: <http://www.coe.int/en/web/conventions/full-list/-/conventions/rms/09000016800771b2>. The Convention had been amended in the meantime, through the 2003 Protocol amending the European Convention on the Suppression of Terrorism, available at: <http://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008370d>

¹⁵⁴ Resolution (77) 27 of the Committee of Ministers of the Council of Europe on the compensation of victims of crime, of 28 September 1977, available at: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=595033&SecMode=1&DocId=659298&Usage=2>

¹⁵⁵ Adopted on 24 November 1983, available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/116>

¹⁵⁶ Recommendation 1426 (1999) of 23 September 1999 on European democracies facing up to terrorism, available at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16752&lang=en>

¹⁵⁷ Adopted in July 2002, available at: http://www.coe.int/t/dlapi/cahdi/Source/Docs2002/H_2002_4E.pdf

of victims of terrorist acts¹⁵⁸ which recognise their suffering and the need to support them. The 2005 Guidelines ensure protection for direct victims and, if appropriate, their family members, in terms of: immediate response, long-term support, information, access to justice, security and protection of private life. These Guidelines have just been revised in May 2017¹⁵⁹, to recommend the 'emergency assistance, continuing medical, psychological, social and material help, all free of charge, and also the setting up of information contact points for victims, effective access to the law and to justice and appropriate and timely compensation'. The revision took place with the consultation of victims and victims' associations.

The 2005 CoE **Convention on the Prevention of terrorism**¹⁶⁰ highlights two important principles: the principle of solidarity with victims of terrorism and their relatives in the Preamble and, in Article 13, the principle of protection, compensation and support to the victims, including economic support to close family members.

The entire coordinated action of the bodies of the CoE resulted in the adoption, in 2006, of the **Recommendation on assistance to crime victims**¹⁶¹, which is seen as the most important CoE general victim instrument when it comes to terrorism¹⁶². Apart from the rights already recognised in the 2005 guidelines, the recommendation also stresses the importance of specific victim-support services and training of professionals who work with victims of terrorism. Importantly, shortly after the Recommendation was adopted, the CoE Consultative Council of European Judges (CCJE) emphasised the importance of protecting victims of terrorism in the court proceedings against perpetrators¹⁶³.

European Court of Human Rights

In addition to the above-described efforts, the most important mechanism for the protection of rights of individuals in Europe is the European Court of Human Rights (ECtHR), established in 1959, with the aim to ensure protection of the rights enshrined by the European Convention on Human Rights (ECHR).

It should be noted that the ECHR has more often been used for the protection of procedural and material rights of suspected or convicted terrorists, than to protect victims of their crimes¹⁶⁴. However, this is attributable to the nature of the rights enshrined in the Convention¹⁶⁵ which does not focus on the wide range of needs of victims.

Only three cases dealing with the rights of victims of terrorism are notable in the ECtHR's case-law, two of which discussed procedural aspects of the right to life and the obligation of

¹⁵⁸ Adopted by the Committee of Ministers on 2 March 2005, available at: <https://rm.coe.int/16805dabe5>

¹⁵⁹ Revised Guidelines of the Committee of Ministers on the protection of victims of terrorist acts, CM(2017)44, available at: https://search.coe.int/cm/pages/result_details.aspx?objectid=0900001680714acc

¹⁶⁰ Council of Europe Convention on the Prevention of Terrorism Warsaw, 16.V.2005

¹⁶¹ Adopted by the Committee of Ministers on 14 June 2006, available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805afa5c

¹⁶² Argomaniz J., European Instruments: meeting needs? in Lynch O. and Argomaniz J. (eds.), *Victims of Terrorism: A Comparative and Interdisciplinary Study*, Routledge, 2015, p. 126.

¹⁶³ Opinion no 8 (2006) of the Consultative Council of European Judges (CCJE) on the role of judges in the protection of the rule of law and human rights in the context of terrorism, adopted in November 2006, available at: [https://wcd.coe.int/ViewDoc.jsp?p=&Ref=CCJE\(2006\)OP8&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=FEF2E0&BackColorIntranet=FEF2E0&BackColorLogged=c3c3c3&direct=true#P96_6528](https://wcd.coe.int/ViewDoc.jsp?p=&Ref=CCJE(2006)OP8&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=FEF2E0&BackColorIntranet=FEF2E0&BackColorLogged=c3c3c3&direct=true#P96_6528)

¹⁶⁴ Hence, for example, out of almost 120 judgments and decisions showcased in the Court's factsheet on case-law related to terrorism, only two are relevant for the rights of victims of terrorism. See ECtHR Factsheet on Terrorism and the European Convention on Human Rights, last updated May 2017, available at: http://www.echr.coe.int/Documents/FS_Terrorism_ENG.pdf

¹⁶⁵ Rules relating to criminal proceedings, for example, mostly contained in Article 6 of the ECHR are not applicable to victims. Similarly, rights from Article 5, which are the most often complained about by the suspected or convicted terrorists, will not be relevant for victims of their crimes.

the State to investigate and prosecute, while the third concerned the right to a fair trial for victims of terrorism.

The two cases in which the Court found a violation both related to well-known terrorist attacks in Russia which involved mass hostage taking: *Finogenov and Others v. Russia* judgment of 20 December 2011, which concerned the siege in October 2002 of the Dubrovka theatre in Moscow¹⁶⁶ and *Tagayeva and Others v. Russia*, judgment of 13 April 2017, which concerned the September 2004 terrorist attack on a school in Beslan¹⁶⁷.

The *Finogenov* case concerned the circumstances surrounding the hostage crisis in Dubrovka theatre in Moscow, in October 2002. The crisis broke out when dozens of terrorists took 850 spectators hostage in the theatre. Russian security forces eventually ended the situation by the use of force and gas.

More than 130 hostages and hostage takers were killed and at least 700 injured. The ECtHR found that there had been a violation of the right to life of the Convention, due to the inadequate planning and implementation of the rescue operation of the Russian authorities¹⁶⁸. The ECtHR also found the procedural aspect of the right to life was violated – i.e. the right to have one's death properly investigated and prosecuted, regarding the authorities' negligence in planning and carrying out the rescue operation as well as the lack of medical assistance to hostages¹⁶⁹.

The case of *Tagayeva and others* concerned the September 2004 terrorist attack on a school in Beslan, North Ossetia, when for over fifty hours heavily armed terrorists held captive over 1,000 people, the majority of them children. Following explosions, fire and an armed intervention, over 330 people lost their lives (including over 180 children) and over 750 people were injured.

The case was brought to the ECtHR by 409 direct victims and their family members. Among other findings, the ECtHR found that in the absence of proper legal rules, powerful weapons such as tank cannon, grenade launchers and flamethrowers had been used on the school. This had contributed to the casualties among the hostages and had not been compatible with the requirement under Article 2 that lethal force be used "no more than [is] absolutely necessary"¹⁷⁰.

The ECtHR also ordered Russia to put into place general measures, such as 'further recourse to non-judicial means of collecting information and establishing the truth, public acknowledgement and condemnation of violations of the right to life in the course of security operations, and greater dissemination of information and better training for police, military and security personnel in order to ensure strict compliance with the relevant international legal standards'¹⁷¹.

¹⁶⁶ ECtHR Press Release: Use of gas against terrorists during the Moscow theatre siege was justified, but the rescue operation afterwards was poorly planned and implemented, 20 December 2011, available at: <http://hudoc.echr.coe.int/eng-press?i=003-3787637-4335744>

¹⁶⁷ ECtHR Press Release, Serious failings in the response of the Russian authorities to the Beslan attack, 13 April 2017, available at: <http://hudoc.echr.coe.int/eng-press?i=003-5684105-7210070>.

¹⁶⁸ ECtHR, *Finogenov and others v. Russia*, applications nos. 18299/03 and 27311/03, judgment of 20 December 2012, §266, available at: <http://hudoc.echr.coe.int/eng?i=001-108231>

¹⁶⁹ *Ibid.* §282.

¹⁷⁰ ECtHR, *Tagayeva and others v. Russia*, application no. 26562/07 and 6 other applications, judgment of 13 April 2017, §§ 609-610, available at: <http://hudoc.echr.coe.int/eng?i=001-172660>

¹⁷¹ *Ibid.* §640.

3.4. The European Union

The European Union takes the terrorist threat seriously and has taken a series of steps in response. EU action has followed two main streams: addressing the need to combat terrorism and addressing the need of its victims – covering all victims of crime as well as focusing on victims of terrorism.

In 1999, the European Commission adopted the **Communication on Crime victims in the European Union**: reflections on standards and action, which set out a discussion framework ahead of the European Council meeting in Tampere in October 1999. While being framed around cross-border victimisation, the communication raised the important issues of: victim support, access to justice, compensation, information and training¹⁷².

The conclusions of the European Council meeting in Tampere indeed pointed out that minimum standards should be drawn up on the protection of the victims of crimes, in particular on crime victims' access to justice and on their right to compensation for damages, including legal costs. In addition, national programmes should be set up to finance measures, public and non-governmental, for assistance to and protection of victims.

Further responding to the 1999 Communication, in 2000 the European Parliament adopted a **resolution**, which stressed the particular vulnerabilities of victims of terrorism, by acknowledging that 'terrorism generates a special category of victims whose plight is not a private matter' calling on the Commission to take further action towards ensuring protection of victims' rights in the EU¹⁷³.

Shortly thereafter, the Portuguese government launched an initiative with a view to adopting a **Council Framework Decision on the standing of victims in criminal procedure**¹⁷⁴. Despite at the time pushing the very boundaries of the EU's right to act, the initiative was successful, and the Framework decision was adopted several months later¹⁷⁵.

The Framework decision provides protection to direct victims, understood as a natural person suffering harm directly caused by a criminal act. The decision guarantees the rights to respect and recognition, receive information, protection and compensation, while the issues of victim support, cross-border victims and training of professionals are also tackled and safeguards set.

After the 9/11 terrorist attacks, the realisation grew within the EU that a framework was needed to coordinate responses at the highest political level to major cross-sectorial crises¹⁷⁶. To fill that gap, in 2013, the EU set up EU **integrated political crisis response** (IPCR) arrangements¹⁷⁷, which provide a flexible crisis mechanism for the Council presidency when dealing with disasters of natural or human origin, as well as terrorism. The IPCR aims at

¹⁷² See Commission's Press release of 14 July 1999, available at: http://europa.eu/rapid/press-release_IP-99-511_en.htm

¹⁷³ European Parliament resolution on the Commission communication to the Council, the European Parliament and the Economic and Social Committee on crime victims in the European Union: Reflexions on standards and action (COM(1999) 349 - C5-0119/1999 - 1999/2122(COS)), 15 June 2000, available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2F%2FEP%2F%2FTEXT%2BTA%2BP5-TA-2000-0280%2B0%2BDOC%2BXML%2BV0%2F%2FEN&language=EN>

¹⁷⁴ Initiative of the Portuguese Republic with a view to adopting a Council Framework Decision on the standing of victims in criminal procedure of 24 August 2000, available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32000Y0824\(02\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32000Y0824(02))

¹⁷⁵ Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings, available at: <http://eur-lex.europa.eu/legal-content/GA/TXT/?uri=CELEX%3A32001F0220>.

¹⁷⁶ http://www.consilium.europa.eu/en/documents-publications/publications/2016/pdf/web_ipcr_pdf/

¹⁷⁷ See e.g. <http://www.consilium.europa.eu/en/press/press-releases/2015/10/30-migratory-crisis-activating-ipcr/>

improving the EU's ability to share information, make joint decisions and coordinate responses at the highest political level. The IPCR tools include a web platform, 24/7 contact points and reporting¹⁷⁸.

EU legislation on terrorist offenses was initially adopted in 2002, shortly after the 9/11 attacks on the US, and was updated in 2008 in the form of the **Council Framework Decision on combating terrorism**¹⁷⁹, which contains a provision on appropriate assistance for victims and their families.¹⁸⁰

Article 10 of the Decision emphasises the need to address the rights and needs of victims, in particular the absence of an obligation to take active part in a criminal prosecution and the rights of victims' families¹⁸¹.

As a next major step towards establishing European victims' rights, in 2004 the **Compensation Directive** was adopted¹⁸². The Directive imposes an explicit obligation on Member States to have State compensation schemes in place for violent intentional crime, including crime of terrorism. The instrument, additionally includes mechanisms to facilitate compensation claims in cross border cases – particularly important given the large number of foreign victims in terrorist attacks.

Following the terrorist attacks in Madrid on 11 March 2004, the European Council increased its activities to counter terrorism, firstly through its declaration on combating terrorism. Among the measures included in this declaration was the establishment of the position of a Counter-Terrorism Coordinator.

In 2005 the Council of the European Union adopted the first **EU Counter-Terrorism Strategy**¹⁸³. The strategic commitment to combating terrorism globally, while protecting human rights relied on the four main pillars of action: prevent, protect, pursue and respond. The final strategic objective aims to manage and minimise the consequences of a terrorist attack by improving crisis response, coordination and addressing the needs of victims. The Counter-Terrorism Coordinator was tasked with monitoring the implementation of the Strategy.

As referred to above, despite the efforts of the EU, extensive action on victims' rights was impeded by the founding Treaties themselves, which did not expressly refer to victims of crime¹⁸⁴. Recognizing this gap, during the EU Summit in Lisbon in 2007, the Council agreed on additional legal basis in the EU Treaties to ensure victim protection. This provided the foundation and political impetus for reviewing EU victims' rights and drafting the principal EU instrument for the recognition of victims' rights – the **Victims' Rights Directive**.

¹⁷⁸ Council of the European Union, The EU integrated political crisis response - IPCR - arrangements in brief, 2016, available at: <http://www.consilium.europa.eu/en/documents-publications/publications/2016/the-eu-integrated-political-crisis-response-ipcr-arrangements/>

¹⁷⁹ Council Framework Decision 2008/919/JHA of 28 November 2008 amending Framework Decision 2002/475/JHA on combating terrorism.

¹⁸⁰ European Parliament, Briefing EU Legislation in Progress: Combatting Terrorism, European Parliamentary Research Service, July 2016, [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/586628/EPRS_BRI\(2016\)586628_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/586628/EPRS_BRI(2016)586628_EN.pdf)

¹⁸¹ Council Framework Decision of 13 June 2002 on combating terrorism (2002/475/JHA), available at: <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32002F0475>

¹⁸² Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32004L0080>.

¹⁸³ The European Union Counter Terrorism Strategy, available at: <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2014469%202005%20REV%204>

¹⁸⁴ See article 31 of title VI on provision on police and judicial co-operation in criminal matters, available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12002E/TXT&from=EN>

The Directive is based on meeting the five broad needs of victims – respect and recognition, protection, support, access to justice and compensation or restoration. To achieve this, the Directive started at the beginning by extending the definition of a victim from just direct victims to also family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death.

The Directive also recognises the needs of particularly vulnerable victims, and specifically refers to victims of terrorism. Recognising their particular situation, it emphasises that they may need special attention, support and protection due to the particular nature of the crime that has been committed against them.

The Directive, in addition, recognises that victims of terrorism can be under significant public scrutiny and often need social recognition and respectful treatment by society. It therefore calls on Member States to take particular account of the needs of victims of terrorism, and to seek to protect their dignity and security¹⁸⁵. The Directive, furthermore, takes note of the danger of secondary victimisation for victims of terrorism¹⁸⁶, the need to pay particular attention during an individual assessment of such victims¹⁸⁷.

Nevertheless, the Directive was criticised for not allowing enough accommodations for the specific needs of victims of terrorism¹⁸⁸.

In December 2015, only weeks after the attacks in Paris and in response to them, the European Commission was swift to adopt a package of measures to strengthen the fight against terrorism and the illegal trafficking of firearms and explosives. The package included two main elements: a proposal for a **Directive on Combating Terrorism**, which aimed to strengthen the EU's arsenal in preventing terrorist attacks. It did so by criminalizing preparatory acts such as training and travel abroad for terrorist purposes, as well as aiding or abetting, inciting and attempting terrorist acts.

Secondly, it introduced an Action Plan to step up the fight against criminals and terrorists accessing and using weapons and explosives through a reinforced control of illicit possession and import to the EU.

In June 2016, High Representative Mogherini presented the EU's new **Global Strategy on Foreign and Security Policy** (EUGS) to the European Council¹⁸⁹. The fight against terrorism is, evidently, one important strategic objective, and within it, the Commission calls for further work on the issues of victims of terrorism.

Within the initiative for the **Security Union** in February 2016, the European Commission adopted the Action Plan against terrorist financing¹⁹⁰. In line with the action plan, the Commission has since adopted a package of measures to strengthen the EU's capacity to fight the financing of terrorism and organised crime¹⁹¹.

The **European Agenda on Security** identifies combating terrorism as one of the three priorities for security in Europe, together with cybercrime and organised cross-border

¹⁸⁵ Victims' Rights Directive, preamble (17)

¹⁸⁶ Preamble (57)

¹⁸⁷ Victims' Rights' Directive Article 22(3)

¹⁸⁸ International Rights Law of Victims, Prof. Dr. Fernández de Casadevante, pps 58-60, Springfield, 2012.

¹⁸⁹ Available at: <http://eu-un.europa.eu/wp-content/uploads/2016/10/EU-Global-Strategy.pdf>

¹⁹⁰ Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1455113825366&uri=CELEX:52016DC0050>

¹⁹¹ European Commission - Press release, Security Union: Commission adopts stronger rules to fight terrorism financing, 21 December 2016, available at: http://europa.eu/rapid/press-release_IP-16-4401_en.htm

crime¹⁹². The Agenda also initiated setting up the European Counter-Terrorism Centre (ECTC), which since January 2016 operates within Europol¹⁹³.

In March 2017 the Council approved¹⁹⁴ the **EU Directive on Combating Terrorism**, which following a series of amendments by the European Parliament has a greater focus on victims of terrorism.

The Directive recognises rights already guaranteed by the Victims' Rights Directive. Furthermore, it requires a comprehensive response to the specific needs of victims of terrorism immediately after a terrorist attack and for as long as necessary is provided within the national emergency-response infrastructure¹⁹⁵; as well as the need to ensure that all victims of terrorism have access to information about victims' rights, available support-services and compensation schemes in the Member State where the terrorist offence was committed¹⁹⁶.

The Directive introduces some new elements in the general provisions, including extended grounds for criminalising aiding or abetting, inciting and attempting, as well as establishing jurisdiction for the offence of providing terrorist training, whatever the nationality of the offender. Moreover, the proposal contains specific provisions on the protection of victims of terrorism, based on Article 82(2)(c) TFEU as an additional legal basis.¹⁹⁷

These developments are an important step in recognizing and advancing the needs and rights of victims of terrorism. Whilst recognizing that the focus of the Directive was on combating terrorism, it could nevertheless have addressed victims concerns in a more detailed and comprehensive manner.

For example, details regarding the types of specialist support to be provided would have been important – including the value of one-stop shops, help lines and single contact persons. A number of these issues are included in recitals, effectively as guidance, but they lack the force of being in the body of the Directive.

Furthermore, while States' cooperation with respect to access to information is important, this is a very limited requirement, ignoring the wide range of problems and needs faced by cross border victims of terrorism.

¹⁹² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - The European Agenda on Security , COM(2015) 185 final, 28 April 2015, available at: <https://www.cepol.europa.eu/sites/default/files/european-agenda-security.pdf>

¹⁹³ See more at: <https://www.europol.europa.eu/about-europol/european-counter-terrorism-centre-ectc>

¹⁹⁴ For the history of the instrument see e.g. European Commission, Proposal for a Directive on combating terrorism, COM(2015) 625 final ; Report on the proposal for a directive of the European Parliament and of the Council on combating terrorism and replacing Council Framework Decision 2002/475/JHA on combating terrorism (COM(2015)0625 – C8-0386/2015 – 2015/0281(COD)) <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A8-2016-0228+0+DOC+XML+V0//EN>

¹⁹⁵ Recital 29

¹⁹⁶ Recital 30

¹⁹⁷ European Parliament, Briefing EU Legislation in Progress: Combatting Terrorism, European Parliamentary Research Service, July 2016, available at:

[http://www.europarl.europa.eu/ReqData/etudes/BRIE/2016/586628/EPRS_BRI\(2016\)586628_EN.pdf](http://www.europarl.europa.eu/ReqData/etudes/BRIE/2016/586628/EPRS_BRI(2016)586628_EN.pdf)

4. MEMBER STATE RESPONSE TO THE NEEDS OF VICTIMS OF TERRORISM

KEY FINDINGS

- Definition of victims' needs to be set broadly, to account for different circles of victimisation and to account for direct and indirect victims, victims' families and broader circles, first responders and witnesses, as well as broader communities.
- In order to understand individual needs, individual assessments need to be established, and extended before and beyond criminal proceedings.
- Victims' needs are better addressed by trained professionals from various fields. Broad training and sensitisation programs and offers need to be put in place to ensure that first responders, as well as members of any other profession that come into contact with a victim of terrorism, can respond to their particular needs and do no further harm.
- Victims' needs change over time, and response to those needs should change accordingly. Three main phases of response to victims' needs are: planning, preparation and prevention; immediate, crisis response; and long-term support.
- Moreover, cross border victims of terrorism find themselves in a particularly vulnerable position. In addition to cross-border victims, some other groups of victims may be particularly vulnerable, including persons with prior trauma or mental health issues, women and children. Furthermore, cultural differences may play a role in different experiences of victimisation.
- Most significant legislative and policy changes, following the attacks in Paris on 13 November 2015, were put in place in France and Belgium. There have been some initiatives in other Member States, but of less significance.

4.1. Member State understanding and response to specific needs of victims of terrorism

4.1.1. Member States' understanding of victims' needs

Definition of Victim

Applicable legislation in France and Germany does not contain a **definition of victim** in general, nor of victim of terrorism in particular. Nonetheless, this does not mean that protection is not provided. In Germany, the closest notion to that of a victim is the notion of the aggrieved person. In contrast, France, relies on the definition of the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

These principles define victims as 'persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power'. There is no specific definition of a victim of terrorism in place in France.

In **Belgium**, similarly, there is no specific legally-developed definition of a victim of crime, but rather of the 'person, or their legal representative, against whom an offense has been

committed, as established by a judgment or a verdict' (*la personne à l'égard de laquelle un jugement ou un arrêt établit que des infractions ont été commises ou son représentant legal*). Moreover, different definitions have been provided by certain bylaws, such as the rules relative to financial compensation, where the victim is defined as a direct victim or their next of kin, under the condition that they are Belgian nationals. In addition, in May of 2017, legislation on national solidarity was adopted, specifically redefining the status of victims of terrorism.

In **Hungary**, legislation provides a definition of a victim as a person having been subject to a crime on the territory of Hungary or suffering as a direct consequence of a crime or a minor offense against property located in Hungary. Family members are not recognised as victims, except with respect to compensation claims.

In **Spain**, there are two separate legal definitions: one general and one specific for victims of terrorism. The former definition recognises victims of crimes as direct victims and, in the case of death, their family members. The latter is introduced by the Law on Recognition and Integral Protection of Victims of Terrorism¹⁹⁸, and recognises victims (*víctimas del terrorismo*) and holders of aids, benefits and indemnities (*titular de ayudas, prestaciones o indemnizaciones*). Victims are persons who suffered physical and/or psychological damage as a result of terrorist activities. Right-holders are family members of direct victims, persons who suffered material damage as a result of terrorism, or witnesses. Protection is also provided to persons who are subject to threat and intimidation from terrorist organisations.

Depending on the level of victimisation, victims will be given access to protection, support, compensation or honorary services.

In **the UK**, the definition of a victim is devolved between England and Wales, Scotland and Northern Ireland by means of three separate statutory instruments. In England and Wales, it is defined in the Code of Practice for Victims of Crime, in Northern Ireland by the Victims' Charter and in Scotland by the Victims' Code. The definition of victim in these instruments covers the direct victim in the first instance and their closest relatives.

In the context of the Northern Ireland conflict, the Northern Ireland 2006 Victims and Survivors Order also defines a victim and survivor as someone who has suffered physical or psychological injuries during, or as a result of an incident, those who have been bereaved and persons who provide care for people who have been injured in such acts. The Order also recognises that psychological injuries may be sustained through witnessing an incident or providing assistance as a first responder.

Individual Assessment

In France, police refer victims for evaluation by France Victimes, the national network of non-governmental organisations which specialises in providing general victim support. All victims need to be subject to individual assessment in order to take stock of their needs during the proceedings.

In Germany, the individual assessment is the responsibility of the first authority which comes into contact with the victim. For German victims of terrorism abroad, that will usually be the

¹⁹⁸ Article 4, Ley 29/2011, de 22 de septiembre, de Reconocimiento y Protección Integral a las Víctimas del Terrorismo.

Coordination Office of the Federal Government for Aftercare, Support for Victims and their Relatives (NOAH). In Hungary, this assessment is conducted by the State Victim Support Services. In Spain, the individual assessment is conducted by the State run Victims of Crime Support Offices.

The UK has the longest history of carrying out individual assessments. Following an attack, each victim or victim's family will be assigned a police Family Liaison Officer (FLO). The role of a FLO is to assist the family by acting as a single point of contact with the senior investigating officer involved in their case and to support the police investigation by collecting evidence and information about the deceased from relatives. In addition, according to national best practice guidance, they have the responsibility to ensure that the family is treated sensitively and with respect. To ensure the transition between the work of FLO workers and long-term victim support workers, it is important that FLO workers introduce VS Homicide Case workers at the earliest point in time and they will undertake a thorough, sensitive needs assessment that includes the long-term need perspective.

Training of professionals

In the observed Member States, **trainings** are organised by different bodies and are tailored specifically to address issues of victims of terrorism. In addition, basic training for some professions, such as lawyers or police officers, contains modules on victims' issues.

In addition to these basic compulsory trainings, there is a range of further capacity building opportunities organised for different types of professionals, which aim to build the capacity of nurses, lawyers, security personnel, staff in transport companies, cultural and tourism workers, educators. For example, in France a training initiative was recently endorsed by the State secretary for Victim Support. The initiative aimed to train the 'referred citizens' (*référénts citoyens*) – a range of different professionals: lawyers, psychologists etc., who volunteered to assist victim support services in providing assistance to victims in the case of a crisis¹⁹⁹.

4.1.2. Member State response to specific needs of victims of terrorism

4.1.2.1. Respect and recognition

States have different approaches towards recognizing victims of terrorism. In all Member States observed for this purpose of this study besides from Hungary, victims of terrorism are provided with enhanced protection through legislation and policy, by being ensured with e.g. particular accommodations in the proceedings. This increased level of protection is already a form of acknowledgement of their particularly vulnerable status, showing particular recognition for their suffering.

This recognition, which may ultimately result in a formal certification, needs to be distinguished from a formal requirement of victim-status recognition as a pre-condition for access to services. Namely, in Hungary, in order to enjoy protection and support as a victim, victim status must be formally recognised.

¹⁹⁹ 20 minutes, *Aide aux victimes: L'Etat appelle les autres villes de France à suivre l'exemple de Strasbourg* (in French only), 6 July 2016, available at: <http://www.20minutes.fr/strasbourg/1882511-20160706-aide-victimes-etat-appelle-autres-villes-france-suivre-exemple-strasbourg>

All countries vary in the way they **acknowledge** victims of terrorism. In all countries, victims have a standing to participate in criminal proceedings against the perpetrators of crimes which were committed against them, either as witnesses, aggrieved persons (in Germany or Belgium), or formal parties in the proceedings (Belgium). In some jurisdictions, they can choose not to be a party, but still request to be notified about any decisions (Spain, UK).

Participation in proceedings may commence at different stages of the proceedings, depending on the role the victim assumes: in the investigation, at the commencement of criminal proceedings, during or after trial.

Some specific measures demonstrating **respect** for victims also have been introduced. In Spain, for example, there is a prohibition for lawyers and court services to address victims of mass-victimisation, including terrorism, and approach them with proposals regarding proceedings 45 days after the attack. Moreover, victims of terrorism are entitled to appeal against judgments in criminal proceedings, even when they did not take part therein.

Furthermore, an important form of acknowledgement can be brought through the very status of victim of terrorism. In France, for example, victims of terrorism have a status equal to that of civil victims of war, and their death certificate contains the recognition of 'victim of terrorism'. This formal recognition entitles the victims to have access to military or disability pensions for civil victims of war, and enables them access to the National Office of Veterans and Civil Victims of War, which may provide them additional support and assistance.

In Hungary, given the absence of terrorist attacks in the country, initiatives have been limited to **commemorating** attacks abroad, whereas other countries also have had initiatives related to domestic attacks.

Belgium, France, Germany, Spain and the UK, which all experienced mass terrorist attacks, have set up different forms of commemoration. Different initiatives have been staged, such as personal meetings with victims and their family members by high-ranking officials, Parliamentary commemorations, visits to the site where attacks took place etc.

For example, following the attack on the Christmas Market in Berlin, the President met with victims and their close ones. In Manchester, following the attack at the concert, the Queen went to visit victims in hospitals. Commemorations and a minute of silence took place in State Parliaments and other fora.

In Belgium, following the Brussels attacks, the first commemorations were organised only by officials, and there was no involvement of the victims. Following protests of victims and repeated requests for their involvement, the Government ensured their participation in the organisation of the first anniversary service. Moreover, they were also involved in the arrangements for a memorial, and a monument was placed in a central location in Brussels.

In France, there is no systematic approach to commemorating victims of terrorist attacks. Nonetheless, apart from State-sponsored commemoration initiatives, from 1998 to the present day there is a ceremony organised by victims' associations on September the 19th to commemorate the attack on the UTA Flight 772, where 54 out of the 170 victims were French nationals. Each year, the ceremony takes place at the statue-fountain 'La parole portée' - the

only monument in Paris dedicated to victims of terrorism²⁰⁰. The ceremony is organised as homage to the victims of terrorism in the preceding year. State dignitaries, including the President of the Republic, regularly attend the ceremony.

Alongside the erecting of monuments and memorials, these locations need to be properly maintained to show the victims the respect they deserve. In that regard, the Spanish memorial for the victims of the 2004 bombings in Madrid 11-M was inaugurated on December 2007. The monument was erected without the involvement of the victims, and the responsibility for its maintenance was shared between the central government and the City of Madrid.

However, by 2015, it was revealed that the City of Madrid failed to ensure their contribution to the maintenance, and the memorial was falling into neglect²⁰¹. Moreover, incidents where relatives of victims were not allowed to lay flowers on the monument were also reported²⁰². This was seen as a show of disrespect towards victims.

In contrast, there is a much greater appreciation amongst victims and family members for the monument at the El Pozo station, where 68 out of the 193 March 2004 victims were killed. This different sentiment is mostly due to their significant involvement in the planning and development of the memorial.

Whilst State actions include robust counter-terrorism responses that can be an important form of recognition for victims, it is important not to usurp this tragedy for other political motives. Not only is this damaging from a broader democratic and legitimacy perspective, but it can also leave victims feeling used by the State.

For example, in Hungary, a legislative package related to a mass influx of people and adopted in autumn of 2015 (Parliamentary Act CXL of 2015) also claims to have focused on terrorism. The legislation imposes serious limitations on access to asylum procedures and reduces guarantees for asylum seekers. It also limits the definition of vulnerable groups and restricts asylum seekers to transit zones. It is arguable to what extent the measure genuinely focuses on terrorism. Moreover, it risks severely reducing the protection of immigrant victims.

4.1.2.2. Member State response to need for support

In all analysed Member States, victims have the right to receive primary information about their loved one's whereabouts, as well as further information about support, rights and compensation. Moreover, there are various hotlines put in place. Primarily, there are regular hotlines, operational for all victims of crimes, but also a possibility of setting up special hotlines, as well as websites to inform victims and the general public about the developments and progress of the action. However, these special hotlines, as far as the way they have been established so far, were operational only for a short period of time after the attack (e.g. in

²⁰⁰ For a detailed description of the 2016 ceremony, see: *Le Parisien*, *Hommage aux Invalides: Hollande annonce une réforme du système d'indemnisation des victimes* (in French only), 19 September 2016, available at: <http://www.leparisien.fr/faits-divers/hommage-aux-victimes-des-attentats-ce-matin-aux-invalides-19-09-2016-6131933.php>.

²⁰¹ *El país*, 19 November 2015, *El monumento al 11-M, hundido por la pelea entre administraciones* (in Spanish only), available at: http://ccaa.elpais.com/ccaa/2015/11/18/madrid/1447876948_546161.html

²⁰² *El país*, 24 November 2015, *Spain's forgotten terrorism memorials*, available at: http://elpais.com/elpais/2015/11/24/inenglish/1448359320_074883.html

France after the November 2015 attacks). It has not been recorded that a special website was ensured, in the longer term, to support the victims in any of the observed countries.

In the emergency response **in Belgium, communication and information** is one of the designated activities in the disaster planning and procedures. In the Federal Crisis Communication Centre, there is a group of communication experts that screens social media in order to identify communication needs within the broad population; this analysis forms the basis of government-crisis communication.

The right of victims to receive information and specialised services is imbedded in the Code of Criminal Procedure, which also guarantees access to specialised services that victims might need during the criminal proceedings, such as justice assistants from the probation service²⁰³. There is, furthermore, a strong legislative framework for victims of crime in Belgium at all stages of criminal proceedings. Support by victim care-workers is guaranteed from first contact with the police, throughout the investigation and trial period and in the aftermath of the proceedings²⁰⁴.

In **France**, victims' right to information is principally regulated by the Interministerial Instruction of November the 12th of 2015, which sets up two national hotlines: one for the general public and another for witnesses. Information about the victims is given to families on the spot or at their residence. Once families are notified, an official victims' list may be announced. The emblematic piece of legislation in the field of victims' rights is the so-called 2000 Guigou Act²⁰⁵, which puts an emphasis on the right of victims to information. The Criminal Procedure Code also guarantees victims' rights to information about other rights in the criminal proceedings, including the right to be supported by a victims' support organisation²⁰⁶.

In **Germany**, the right of victims to information was strengthened by the introduction, in December 2015, of the Third Victims' Rights Act (*3. Opferrechtsreformgesetz*). As a result, victims must be informed about the time and the place of the main hearing and accusations to the extent that they relate to it. All rights of information regarding victims of crime were reformed by this legislation, in an effort to transpose the Victims' Rights Directive.

Nonetheless, there is no specific legal base for accessing immediate and streamlined emergency information about the whereabouts of relatives immediately after the attack. The right to information often conflicts with data protection regulations, and the obligation of medical staff not to release any information about the treatment without the patient's consent. This is usually overcome by the use of the general regulation tasking the police with giving information about the whereabouts of relatives.

²⁰³ Belgian Code on Criminal Procedure, Chapter 1 (preliminary provisions) §3bis, available at: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=1878041701&table_name=wet

²⁰⁴ It should be noted, however, that there is an ongoing debate concerning the balance between the rights of victims and the confidentiality and integrity of the judicial inquiry. In Belgian criminal law, the integrity of inquiry takes precedence over victims' rights.

²⁰⁵ Act no. 2000-516 of 15 June 2000 on reinforcing the protection of the presumption of innocence and on the rights of victims (*Loi n° 2000-516 du 15 juin 2000 renforçant la protection de la présomption d'innocence et les droits des victimes*), named after the then Minister of Justice, Élisabeth Guigou.

²⁰⁶ §10-2 of the Criminal Procedure Code. This provision was introduced in August 2015, to transpose the right to information from the Victims' Rights Directive.

In the preamble of the **Spanish** 2011 Law on victims of terrorism, the Ministry of Interior assumes the obligation to maintain adequate channels of information, support and participation, as well as the preparation of reports and the presentation of initiatives and normative proposals that are necessary. Provision of documents is determined by taking into account the experience and the needs of victims for support and protection.

According to the 2015 Law on Victims' Procedural Statute, all victims have the right to information from initial contact with the competent authorities, accessible and understandable information, adapted to their circumstances and the nature of the crime. This information relates to the available assistance and support, procedural rights, availability of legal aid, protection measures and compensation.

In the **longer term**, in all Member States subject to the present study, victims enjoy the right to information about available services, on the one hand, and about their rights in the proceedings, on the other hand.

Regarding **other types of support**, in Belgium, apart from absence of leave available for personal injury and incapacity, employees are entitled to be absent from work for a certain period of time in the case of death of a family member. Moreover, longer leave of absence is granted to enable employees to look after injured family members. Nonetheless, in many instances, this leave is unpaid for, or less paid for, which causes a financial impact for victims and family members. In addition, there is a set of measures aimed at work-related injury, which may be applicable to some victims (train or bus drivers, pilots, but also first responders). Many of these remedial measures, however, are at the discretion of a doctor or the employer.

In Flanders, the government has, in the past, initiated **peer support** groups for victims of historical abuse. However, such an initiative has not been initiated in response to terrorist victimisation. Nonetheless, this has not prevented victims themselves to set up peer support.

In France, victims have the right to be informed from the moment of the opening of an inquiry²⁰⁷ about major stages in the proceedings as well as the right to assume the role of a civil party in the criminal proceedings. This is usually done by means of a formal information sent to the victim.

In **France**, peer support groups have taken root, and some of them have grown into important actors in creating victim-support response and policies. Peer support groups fall within the principle of freedom of association and are seen as an important element in recovery. While peer support groups may function as formal and informal gatherings, there is an interest in setting up a victims' association, or joining an existing one, since as of 1990, victims' associations can become a party in civil proceedings. In such a capacity, victims' associations can act as a proxy in ensuring compensation, at the same time facilitating the procedure and gathering of evidence and reducing legal costs for victims.

Specialised organisations like FENVAC (*Fédération Nationale des victimes d'attentats et d'accidents collectifs*) and AfVt (*Association française des Victimes de Terrorisme*) are providing specialised trauma care, administrative, legal and practical support to victims of terrorism.

FRENCH ASSOCIATION OF VICTIMS OF TERRORISM

The French Association of Victims of Terrorism (*Association française de victimes de terrorisme, AfVT*) started as a peer support group of family members of the victims of UTA DC-10 flight no. UT772, which claimed lives of 170 passengers and family members in 1989. The group was transformed into UTA DC-10 Foundation, and in that capacity pursued the culprits for damages.

This fight ended with compensation awards at the French courts, as well as an arrangement with the Libyan government, which was responsible for the attack, to pay \$1 million to families of each of the victims.

Having won the fight for compensation, the Foundation continued its efforts to commemorate the victims, which resulted in putting up a memorial in the desert of Ténéré, at the scene of the crash.

In 2009, the Foundation grew into the French Association of Victims of Terrorism, an association working on supporting victims to contribute to the combat against terrorism by respecting human rights and international law.

See: www.afvt.org

²⁰⁷ §80-3 of the Criminal Procedure Code

In criminal proceedings **in Germany**, victims should apply to be informed about the course of the proceedings and their outcome. Victims can also join the prosecution as a private accessory prosecutor

Victims of terrorism can receive other types of support through several channels in Germany. Victims are referred for support to a number of associations which provide either generalist or specialist assistance. Weisser Ring is the only German nation-wide organisation which provides victim support²⁰⁸. In many cases, Weisser Ring has established cooperation with law enforcement, who refer cases to them. In addition, there are specialised counselling offices for victims. In addition to the general and specialist support, there are also emergency funds available to financially support victims for e.g. Emergency funds available to ensure financial support for victims, while victims are also provided with practical support in looking for new accommodation, or can also receive support through a social security system.

In **Hungary**, there are 20 regional Victim Support Services all over the country providing immediate assistance and information, which is accessible through free hotlines as well. Victim Support Service provides victims with advice and information on their rights, duties and available support; emotional support; legal advice and practical assistance; instant financial support in crisis situations. Moreover, victims may apply for instant monetary aid at the Victim Support Service to cover extraordinary expenses including housing, clothing, nutrition, travelling, medical and funeral costs. On request, the Service provides assistance in the filling of forms and submission of applications, who refers them to other organisations that also offer services for victims. Moreover, emergency financial assistance is available for victims relatively to the immediate costs caused by victimisation, which do not affect their further right to compensation.

The **Spanish** 2011 law set up the Office of Information and Assistance to Victims of Terrorism of the Special Court (*Audiencia Nacional*), which ensures the necessary coordination among all institutions involved in the assistance and protection of victims of terrorist offenses. Furthermore, the Directorate-General for Support to Victims of Terrorism (*Dirección General de Apoyo a Víctimas del Terrorismo*) gives victims of terrorism information, and provides them with generalist and specialist support services, in particular medical and trauma support. Moreover, the Directorate also provides vocational support and other forms of practical support, such as with housing etc. The Directorate's staff also refers victims to associations and foundations of victims of terrorism that can provide more humanitarian and personal assistance.

Further support is provided through Victim Support Offices, which are generalist support services provided by the State and present in every province in Spain. These generalist services provide victims with information, psychosocial and practical support. This support is complemented by the services offered at the regional level, by provinces, or by non-governmental sector organisations. With a long history of terrorist violence, Spain has several active associations of victims, including M-11, the organisation set up shortly after the Madrid bombings on 11 March 2004 with the aim to advocate for medical, psychosocial and legal support for the survivors and families of the 192 killed in the attacks²⁰⁹. There is also the Association of Victims of Terrorism (*Asociación de Víctimas del Terrorismo, AVT*), a larger,

²⁰⁸ See more at: <https://weisser-ring.de/english>

²⁰⁹ See more at: <http://asociacion11m.org/>

nation-wide organisation with more than 4400 members, all victims of a number of terrorist organisations across the country²¹⁰.

In the event of an act of terrorism in **the UK**, local authorities, emergency and health services across England, Wales, Scotland and certain organisations in Northern Ireland, have a legal responsibility to provide information and advice to the public under the Civil Contingencies Act 2004. While the Act does not specify what this should cover, non-statutory guidance states that accurate, timely, clear and consistent information across agencies should be provided on actions taken by responders to reduce the risk of harm and guidance for the public.

Within the first hour of an emergency it notes that reassuring messages, information on the implications for human welfare and infrastructure as well as a helpline will also be needed. The guidance emphasises the importance of communicating information that the public will want to know and ensuring that it continues to be provided in the weeks and months following an incident. Furthermore, it recognises that a broad range of people (including survivors, relatives, the local population and the wider community) may be affected and recommends that the needs of each person should be taken into account in the design of communications.

As part of the emergency plans, a Humanitarian Assistance Centre (HAC) can be set up. HACs are usually set up within the first 48 hours of an emergency and provide those who have been affected, among other things, with a single access point for coordinated, timely and accurate information, for example in relation to whom to contact about missing persons, where to access further support and assistance and regarding longer-term help.

With regards to the police investigation, victims of terrorism (like all victims of crime) are entitled to a number of services from the police if the crime takes place in England or Wales. This includes: information about referral to victim-support services; what to expect from the criminal justice system; Special Measures; the reasons for not investigating a crime and the arrest, release without charge or bail of a suspect within one working day. In addition, the police and other criminal justice agencies have a number of other responsibilities with regards to the provision of information and other services, some of which are set out in the following sections.

Apart from support through information provision, in the UK, in addition to the support provided by FLOs, bereaved family members are also offered support from the National Homicide Service. The National Homicide Service is a support service financed by the government, but delivered by the civil society organisation – Victim Support²¹¹. Where an act of terrorism occurs abroad, the FLO will notify the Homicide Service of every new case of a death abroad within 24 hours of the commencement of an investigation, under an arrangement with the Foreign Commonwealth Office.

Once the bereaved person has given consent, the Homicide Service caseworkers can provide a range of immediate practical support measures, depending on the needs of the family, such as assistance with repatriation and funeral arrangements, transportation, accommodation costs and advocacy with a variety of agencies such as employers and health services. They also provide ongoing emotional support and assistance with compensation claims. National

²¹⁰ See more at: <http://avt.org/>

²¹¹ See more at: <https://www.victimsupport.org.uk>

Health Service (NHS) also provides psychological support, but for some survivors and bereaved family members the waiting time to receive counselling or therapy services on the NHS can feel too long²¹². Moreover, there is a number of peer support groups but access to them may be limited or delayed²¹³.

In the UK for instance, The September 11 UK Families Support Group (S11UKFSG) provides a forum for the mutual support of British families whose loved ones were lost in the terrorist attacks in the US on September the 11th of 2001, through emotional support and family contacts; financial and legal support; advice from and liaison with external agencies.

4.1.2.3. Member State response to need for protection

In all Member States observed in this study, there are specific precautions in place regarding witness protection, and protection of victims as witnesses in the criminal proceedings. According to the law, victims should be protected from meeting the perpetrators, should not to be questioned about private matters which are not relevant to the case and have special accommodations depending on their specific vulnerabilities.

Moreover, there are general data protection regulations, which refer to victims' private lives and the prohibition on sharing personal data. Finally, during criminal proceedings, courts may limit the presence of the media or the public in general, or one part of the hearing if the victims' interests require so.

When it comes to protection from secondary victimisation in other spheres of life, there are initiatives that aim to sensitise service providers, as well as broader stakeholders, about the vulnerabilities of victims of terrorism. Most of them focus on training. In France, there are initiatives to train nurses and other medical staff on how to communicate with victims of terrorism, for example. In Belgium, steps are being taken to sensitise insurance companies to take a victim-centred approach in their communication and business practices.

Regarding victimisation through the media, as mentioned above, the general framework is set through rules pertaining to protection of privacy and data protection, on the one hand, and public interest on the other hand.

Some experiences show that there are particular initiatives targeting the media, to sensitise them about the needs of victims of terrorism. In Belgium, a brochure was produced for print and broadcast journalists containing advice on how to deal with victims from a victim's perspective.

Also, in all countries examined, there are self-regulatory media mechanisms, which help ensure that the media observe certain self-developed ethical standards. For example, members of the Independent Press Standards Organisation (IPSO) in the UK are required to adhere to a set of standards designed to ensure that the rights and interests of the individuals they are reporting on are respected whilst maintaining their freedom of expression.

²¹² Barker A. and Dinisman T., *Meeting the needs of survivors and families bereaved through terrorism*, Victim Support England and Wales, 2016, available at: https://www.victimsupport.org.uk/sites/default/files/Victim%20Support_Meeting%20the%20needs%20of%20survivors%20and%20families%20bereaved%20thro....pdf

²¹³ Ibid.

The Editors' Code of Practice provides that information should not be, among other things, inaccurate or misleading and that people must not be intimidated, pursued or harassed. In addition, in cases of bereavement or shock, journalists should act sensitively and with discretion.

More and more media outlets are talking about victims, humanizing them while trying to talk less about the perpetrators in a deliberate attempt not to give them undue attention and a sense of importance. To go a step further, part of the French press recently announced that they would no longer show pictures of the suspected terrorists, in order not to glorify them and, in such a way, pay respect to the victims.

4.1.2.4. Member State response to need for access to justice²¹⁴

Member States all guarantee access to justice for all, and are all bound by international human rights instruments to that effect. However, Member States also provide a more specific role to victims in the proceedings, depending on their status as a victim and the type of proceedings they take part in. As a rule, victims have the right to appeal decisions of prosecutors who choose not to pursue the prosecution, as well as against judgments. However, sometimes this will depend on their formal participation in proceedings.

Legal aid is generally granted to victims, but in some systems it may be conditioned by a means test. Costs of participation at hearings are covered, however, and sometimes it may be conditioned by being summoned to attend the hearing. There is no separate guarantee for the reimbursement of lost income or for costs of a support person.

In all six Member States, victims can take part in the criminal proceedings against the perpetrators. In those proceedings, they can assume different roles. However, victims are not always granted the free legal aid, nor are they allowed to appeal an unfavourable decision in each situation.

In **Belgium**, a victim can take two possible roles in criminal proceedings. They can only declare themselves as a victim, or take part in the proceedings as the aggrieved party. However, in order to be a party to the proceedings, victims have to either have an address in Belgium, or have a legal representative residing in Belgium.

Until 2016, victims had the right to communicate with the court in one of the three official languages of the country (Flemish, French or German). Nevertheless, a reform was introduced in 2016 to transpose the Victims' Rights Directive and ensure that a victim can communicate with the court in a language they can understand.

Free legal aid is available, but it is only free for the initial consultations. Any further intervention or legal advice is chargeable at a flat rate of 50 euro. However, victims can request *pro deo* representation if they pass a means test. If the public prosecutor decides to close the case, victims cannot appeal such decision.

In **France**, any terrorist incident, regardless of whether it happened at home or abroad, is processed before a special antiterrorist section of the Paris court. When an incident is declared to be terrorist in nature, the special section is assigned to proceed in such a case. Victims can declare to take part in the procedure before this court as a civil party. Any victim

²¹⁴ For the purposes of the present study, only the role of victims in criminal proceedings against the persons involved in the terrorist act that lead to their victimisation was considered.

with this status has automatic free legal representation by an attorney of their own choice – the only condition being that the attorney accepts to represent them. The victim can also demand to be appointed an attorney, if they have a difficulty to choose one on their own. Legal costs can be assumed by a guarantee issued by an insurance company, based on an insurance policy that the victim might have contracted in advance of the attack.

The proceedings before the anti-terrorist court are public and allow victims to be present. The victims who have a desire to express themselves and give their testimony about the events will be heard in a hearing. A special time will be set aside in the proceedings to hear the victims' testimonies. Exceptionally, the public can be excluded from the hearing, in case of risk for the public order or safety. If unsatisfied with the outcome of the proceedings, civil parties can introduce an appeal.

If the victim incurs any cost to attend the hearing, these costs will be reimbursed.

In **Germany**, victims of terrorism have the same treatment as victims of other crimes. They can join the proceedings as the private accessory prosecutor, and upon an application, they can be appointed an attorney. If joining the proceedings in the capacity of the private accessory prosecutor, the victim has the right to appeal the verdict, but this is limited to certain conditions, i.e. they 'may not contest the judgment with the objective of another legal consequence of the offence being imposed, or of the defendant being sentenced for a violation of the law which does not justify jointer by the private accessory prosecutor²¹⁵.' Moreover, 'where only the private accessory prosecutor has filed an appeal on fact and law, such appeal shall immediately be dismissed [...] if at the beginning of a main hearing neither the private accessory prosecutor nor an attorney representing him appeared²¹⁶.

Legal aid for victims of terrorism is available without a means test. If summoned to appear at the court, victims have the right to the reimbursement of expenses.

In **Hungary**, a victim can participate in the proceedings as a civil claimant, an aggrieved party or as a substitute private prosecutor. A civil claimant's role is limited to the compensation claim within criminal proceedings. The aggrieved party's status is automatically given to any victim known to the prosecuting authorities. Substitute private prosecutor status is given to victims who take over a prosecution from the public prosecutor if they drop the case.

Victims may be represented by a lawyer, and if acting as a private prosecutor this representation is compulsory, unless the victim him-/herself is a member of the Hungarian bar.

As an aggrieved party, the victim has the right to appeal decisions of the prosecutor or the court. Also, costs of participation at the hearing will be reimbursed to the victim taking part in the proceedings.

In **Spain**, in order to be recognised in the proceedings, victims do not need to assume any specific role. However, they may express a desire to be formally notified about certain decisions. Regardless of their request to be informed, there is a legal obligation to inform them about the decision not to prosecute. Victims have the right to appeal any decision that has been notified to them.

²¹⁵ §400 of the German Criminal Procedure Code

²¹⁶ §401 of the German Criminal Procedure Code

Regardless of the existence of sufficient resources to litigate, the right to free legal aid is ensured, and shall be provided immediately to victims of terrorism in any prosecutions that are linked to, arise from or are the consequence of their status as victims. Victims also have the right to reimbursement of their expenses and any court fees.

In the **United Kingdom**, the regulations concerning access to justice are mostly devolved. In England and Wales, under the Victims' Code of Practice, victims of terrorism and bereaved close relatives are recognised as 'victims of the most serious crime'. As a result, they are entitled to an enhanced level of service from criminal justice agencies providing that either the crime took place in England or Wales or criminal proceedings are taking place in England and Wales. This means, among other things, that information regarding the prosecution of the suspect (which may be a decision not to prosecute), a decision to issue an out-of-court disposal or release the suspect on bail, details of the time and date of the first hearing and a decision to discontinue proceedings, must all be provided within one working day of the information being available. Bereaved close relatives are also entitled to be offered a meeting with the CPS to discuss the reasons a suspect was charged or not and, if relevant, the reason a decision was made to alter a charge or discontinue all proceedings.

Victims of terrorism and bereaved close relatives, like all victims of crime, are further entitled to be kept informed of developments in proceedings, including the date and outcome of criminal court hearings or if an appeal is made, and be treated in a respectful manner. Consequently, where cross-examination is deemed to be inappropriate, the CPS has a responsibility to intervene by bringing it to the attention of the court. Victims of terrorism, as victims of violent crime, also have access to the Probation Service Victim Contact Scheme which provides victims with information and advice on the offender's sentence.

In Northern Ireland, the Victim Charter explicitly recognises that victims of terrorism may have specific support needs. Victims of terrorism, like all victims of crime, are also entitled to information on developments in proceedings, such as a decision to prosecute or not prosecute a suspect, the alteration of a charge, the outcome of criminal proceedings and the trial.

In England and Wales, victims of terrorism are not automatically entitled to free legal representation. Eligibility is determined on a case-by-case basis, taking into account factors like the financial situation of the individual, whether or not the case is likely to be successful and if it would be in the interests of the public.

Northern Ireland and Scotland have separate legal-aid schemes. In Northern Ireland, the NI Legal Services Commission, as of 2011, is authorised to disregard the merits test for civil legal aid, depending on the circumstances of the case. In Scotland, eligibility for civil legal-aid is assessed on: the financial situation of the individual, whether there is a legal basis for the case, whether 'it is reasonable to use public funds' and whether assistance is available elsewhere.

4.1.2.5. Member State response to need for compensation

All Member States have transposed the Compensation Directive and put into place different types of compensation for victims of terrorism. However, the systems in place are quite diverse.

In all Member States, victims have access to emergency funds, which are either a legal right or a discretionary claim that is granted by default. In addition, in all Member States, victims have some sort of access to emergency financial aid and a special pension or other form of regular social benefit. In addition to those, victims in all States examined have access to special one-off lump sums, which may be seen as an award for acknowledgement of their victimisation.

There appears to be no systematic approach to identification and compensation of distal losses. All States except Hungary provide compensation regardless of the victim's income. In some systems, victims do not need to apply for compensation themselves at all, as long as relevant authorities are aware of their identity and the circumstances of their victimisation.

In **Belgium**, the Commission for financial assistance to victims provides compensation for victims. This Fund caters to victims in cases where the perpetrator is either unknown or insolvent. The levels of payable compensation are strictly defined, and up until 2016, a maximum of €62,000 was put in place to cover all costs. The Commission employs the principle of subsidiarity. This means every other applicable form of compensation (e.g. insurance) must be exhausted before the Commission intervenes. Alongside the normal procedures, victims could also apply for emergency funding for a maximum of €15,000. These limits changed in 2016.

Previously, the procedures (also in case of emergency help) could easily take up to two years to complete. Furthermore, the complexity of the process entailed that many victims required some form of assistance to submit a claim.

However, after the Brussels attacks in March 2016, the Government introduced an enhanced and swifter procedure for victims of terrorist attacks. There is no longer a need to wait for a verdict in a court case to receive compensation. Nor is it necessary that victims have the status of party to the proceedings.

The maximum amount of compensation has been more than doubled (from €62,000 to €125,000), the ceiling for emergency funding has been raised from €15,000 to €30,000 and the amount of paperwork for victims reduced. A single contact person for victims of terrorism was assigned to answer all questions and to facilitate access to compensation for victims and services.

These regulations were formalised in a new statutory instrument in February of 2017. A list of terrorist attacks to which the new compensation procedures were to be retroactively applied was later set out in another statutory instrument in March 2017.

In **France**, the creation of a compensation fund for victims of terrorism was proscribed in 1986 and is today executed by the Guarantee fund for victims of terrorism and other infractions (*Fonds de Garantie des victimes des actes de terrorisme et d'autres infractions*, FGTI). The fund is grounded on the premise of national solidarity, and is financed by a contribution collected by means of a single burden on every property insurance contract in France.

Following an attack, the Public Prosecutor or the Ministry of External Affairs and International Development (if the attack happened abroad) will forward a list of victims to the Fund. Victims themselves also have a timeframe of ten years to address themselves to the Fund directly.

At the first instance, a provisional payment is done no later than one month after getting in touch with the victim or his family (if the list is received) or being contacted by the victim (if victim filed the claim directly). The amount of the first instalment will depend on the circumstances of the case and the documentary evidence the Fund receives.

In order to make a compensation proposal, the Fund will take the approach of an integral reparation; it will compensate for damages of all types – physical injuries, psychological suffering, professional damages etc. – suffered by the victim or their relatives. Relatives receive compensation in the case of victim's death, as well as in cases of severe injuries of the victim. Each offer for compensation is individualised and adjusted to the victim.

Since 2014, the Fund can transfer, as a matter of prepayment, an amount between €10,000 to €30,000 on the account of emergency compensation, before the final decision on compensation is made.

Also, as mentioned in section 2.3.1 above, victims of terrorism may, under certain conditions, also demand to be given status of civil victims of war. This status, and any benefits related thereto, however, is subsidiary and is in addition to the compensation of damages by the Fund or from other sources.

In **Germany**, victims have the right to claim compensation, as well as some other social benefits. In practice, victims of terrorism receive the same treatment as soldiers when it comes to these benefits.

Compensation for victims of crimes in **Germany** comes, as a rule, in the form of compensation for actual damage and costs incurred by victimisation. This means that victims get all of their health needs paid through the German social benefits system, and any other extraordinary cost related to treatment and recovery is also covered (e.g. prosthetics, counselling etc.). In addition, victims can be awarded a pension, in case of permanent deterioration of their health and disability. In addition, victims of terrorism can request financial aid from the Federal Office of Justice. This assistance is not a legal claim, and is entirely discretionary. Nevertheless, it is being granted to victims of terrorism, as a matter of rule.

Discretionary payment by the German Federal Office for Justice is only available for victims of terrorism, while victims of traffic accidents can receive compensation from a fund reserved for road traffic victims. When a terrorist drove a stolen lorry into a mass-gathering at the Berlin Christmas Market in December of 2016, it transpired that victims could not receive compensation.

A special guarantee fund was created to close the gap and ensure compensation to the victims in Berlin.

Moreover, victims of terrorism may be eligible to apply for compensation based on legislation established for victims of war²¹⁷, from State-run funds, which are only available in Rheinland-Pfalz, Baden-Württemberg, Niedersachsen, Schleswig-Holstein and Bayern. Again, this compensation is also subject to the discretionary power of the Funds, rather than a victim's right. In order to qualify for compensation, the attack needs to have happened on the territory of the Land, and the victim needs to be a citizen.

²¹⁷ §22 Administrative Procedure for War Victims Care Act (Gesetz über das Verwaltungsverfahren der Kriegsopferversorgung)

An additional source of potential compensation can come from the statutory accident insurance (*gesetzliche Unfallversicherung*). However, this compensation is available only for persons who suffered victimisation in relation to their work.

In **Hungary**, victims of terrorism receive compensation from the general victims' compensation scheme. According to the scheme, compensation is based on a means test. Only persons with income above HUF 159,100²¹⁸ (in 2009) can demand compensation. The application form for state compensation has to be submitted to any county office within three months after the crime was committed. The office helps to fill the form and transmits it to the deciding authority, the Budapest Office of Victim Support Service.

The sum of state compensation can be in the form of a lump-sum payment if it aims at compensating pecuniary damages or as regular monthly instalments if it aims at compensating the diminution of regular income.

A victim shall be deemed ineligible for compensation in a number of cases, including: if they decline to testify without cause in the criminal proceedings opened as a result of the crime giving rise to compensation; they failed to meet their obligation of cooperation in the expert examination, as well as if they fail to cooperate in the medical and professional examination conducted under the compensation proceedings; if they fail to submit a civil motion that is necessary for the criminal proceedings.

Spain has a system of extraordinary pensions for victims of terrorism. These pensions can be claimed by the victims of terrorism and their successors, even if they did not have the right to an ordinary pension under any social security scheme prior to the attack. The pension is set in the monthly amount of three times the state base salary, with fourteen payments a year. In addition to the pension, victims of terrorism also have the right to a lump-sum amount as recognition of their suffering. This lump-sum can be determined in the amount of up to €250,000 for death of a relative, or up to €500,000 for survivors of an attack who suffer severe disability as a consequence. Victims can also receive compensation for non-disabling injuries, in the amounts related to the state base salary.

'If, due to the seriousness of the injuries, a total, absolute or severe permanent disability is likely to be subsequently recognised to the victim, the Ministry of the Interior may advance up to EUR 18,030.36 on account of the final subsidy. Furthermore, in cases of disabling injuries or temporary disability, the amounts corresponding to the periods of absence from work may be paid on a three-month basis. These advances shall be determined by multiplying the double of the [state base salary] in force when the injury occurred by the number of the days of inability to work²¹⁹.'

The amounts resulting from their application function as minimum indemnities, which will be paid in the absence of a judgment that contains a pronouncement on civil liability, provided that the victims do not have children or other persons under their charge, and regardless of the level of income. The direct or indirect victims have the right for the State to pay them, on an extraordinary basis, the amount imposed by a final sentence to the perpetrators of civil liability for physical and/or moral damages or death, with the maximum limits.

²¹⁸ If victim lives alone. If victims live with the family, the amount is set on a per capita.

²¹⁹ §22ter of the Law 29/2011

Extraordinary compensation shall be deducted from the amounts paid as ordinary compensation.

Victims of terrorism may also receive specific subsidies in order to finance medical treatment, prostheses and surgery, provided that the current need therefore is accredited, that they are related to a terrorist attack, and that they have not been covered either by a public or private insurance system or the public system of redress or compensation for the victim²²⁰.

The compensation claims need to be filed within one year of the victim's full recovery. The indemnities are exempt from income taxes. The compensation is processed ex officio, and a request from the victim is not necessary.

In the UK, there are two compensation regimes, that for the crime taking place in England, Wales or Scotland, and that in Northern Ireland.

In **England, Wales and Scotland**, victims of crime are entitled to apply for compensation under the Criminal Injuries Compensation Scheme. In the event of a terrorist attack in Great Britain, the following persons are eligible for compensation in relation to a criminal injury: UK residents, British citizens, close relatives of British citizens, citizens of the European Union or European Economic Area, family members of EU or European Economic Area citizens, persons in the armed forces, close relatives of persons in the armed forces, nationals of a state party to the Convention on the Compensation of Victims of Violent Crimes.

The Scheme does not offer compensation to persons who are typically expected in their work to take 'exceptional' and 'justified' risks.

Awards made under the Scheme are not dependent on the conviction of a suspect, and the types of payment reflect both the physical harm caused to victims and the wider implications. Awards can be made for: physical and clinically diagnosed mental injuries that are considered to impede a person's ability to carry out their usual daily activities; loss of earning to compensate victims who are unable to work or have a limited capacity to work as a direct result of a criminal injury and to cover special expenses (for example, associated with the cost of care and medical treatment under the NHS and special equipment required by the applicant) and funeral costs (up to £5,000). In addition, bereaved relatives (provided they meet the qualifying criteria) may be eligible for a bereavement payment, a child's payment or dependency payment.

To be eligible for an award under the Criminal Injuries Compensation Scheme, applications must be made within two years of the incident, and only under exceptional circumstances would this be extended.

Where the injuries suffered by a victim with very low income (less than £111 per week) who does not qualify for an award under the Criminal Injuries Compensation Scheme, financial reparation may be provided by the Government through the Hardship Fund. In order to be eligible for this fund, the crime must have occurred in England or Wales, victims must have been in a position where they were unable to work for seven consecutive days as a result of the injuries sustained (which can be mental and/or physical), have no unspent convictions and do not ordinarily receive statutory sick pay. Furthermore, the incident must have been

²²⁰ §32 of the Law 29/2011

reported to the police within a reasonable timeframe and the injuries sustained after November the 27th of 2012.

In **Northern Ireland**, the administration of compensation is the responsibility of the Northern Ireland Executive. Eligibility is dependent on the applicant sustaining a relevant criminal injury in Northern Ireland or meeting the qualifying criteria for compensation in fatal cases. Awards can be made for: physical injuries; disabling and permanent mental illnesses confirmed by psychiatric prognosis; to compensate for loss of earnings, cover special expenses (including reasonable private medical expenses and care provided by a relative or friend) and in respect of bereavement and dependency. The Scheme sets out a series of criteria, one of which must be met, in order for compensation to be made in cases where the applicant has sustained a mental injury without physical injury, such as a person being 'put in reasonable fear of immediate physical harm'.

Moreover, relative to victims in Northern Ireland is the Stormont House Agreement of December 2014. The Agreement included a number of provisions that recognise, and aim to mitigate, the impact of the conflict-related troubles on victims and survivors in Northern Ireland. To this end, a commitment was made to take forward the proposal to introduce a pension for severely disabled victims of terrorism.

4.1.2.6. Member States response to needs of cross-border victims

Belgians who are victims of crime whilst abroad enjoy the same rights to compensation and support as those who are victims of crime committed in Belgium. Foreign victims of crimes committed in Belgium enjoy the same rights as Belgian citizens. The only exception to this rule concerns victims with no legal right of residence. All victims (Belgians or not) have the same rights to compensation. As previously mentioned, to be eligible for compensation, it was necessary to have the status of a party to the proceedings. This provision no longer applies to victims of terrorism. The status of party to the proceedings is, however, required if victims wish to take advantage of all their rights during criminal proceedings. In order to become a party to the proceedings, it is necessary for victims to have an address in Belgium.

With the transposition of the Victims' Rights Directive, cross-border victims were granted the right to participate in the proceedings in the language they understand, unlike the previous requirement to take part in one of Belgium's official languages.

The regime that had been in force at the time of the Brussels attacks left the needs of foreign victims insufficiently taken into account by the government. The translation of official documentation often fell to volunteers and NGOs, such as Victim Support Europe.

In **France**, there is no difference between French and foreign victims with regards to compensation and victim support. Regarding terrorist acts which take place outside of the country, the FGTI provides compensation of French nationals as well as their next of kin, regardless of their nationality. Victim-support services are available to anyone who has a relationship with France.

Following an attack in France, any victim can assume the status of a civil party in the proceedings. Foreign victims can benefit from having their travel costs paid for to attend any procedural steps. They also have the right to get translation of submissions and proceedings. The right to translation was introduced in France with the transposition of the Victims' Rights Directive in August 2015. Nonetheless, there is a great need to improve services of translation and interpretation for victims.

Following the attacks of November the 13th of 2015, important work has been done to cooperate with diplomatic and consular representation of countries whose nationals were identified as victims. The representations were swift in responding and intervening to assist their nationals. Nonetheless, long-term support turned out to be more problematic, facing a number of barriers: language, distance, lack of knowledge of the legal system etc.

Regarding **German** victims abroad, embassies and consulates are the first points of call for affected individuals at the place of attacks taking place abroad. It is up to the consulate or embassy to launch the support services in terms of counselling and administrative support. Upon their return to Germany both victims and their families have different immediate and long-term support needs. Support for German victims abroad is ensured through the work of NOAH.

Regarding foreign victims of attacks in Germany, EU residents enjoy the same rights to compensation as residents in Germany. For other victims, special eligibility criteria are in place. Moreover, cross-border victims have the same right to claim financial assistance from the Federal Office of Justice.

As a role of witness in criminal proceedings, the victim has the right to reimbursement of his travel expenses, as well as compensation for any income lost due to the attendance at the hearing.

Following the Brussels attacks, it felt like the Belgian Government took care of foreign victims only as a matter of a diplomatic duty, and not as a consequence of genuine concern for those victims.

When the Government started preparing commemoration of the victims of Brussels attack, on the occasion of the first anniversary, they forgot to consider consulting foreign victims, or inviting their relatives to the ceremony. They did involve them, following an intervention from the victims' and victim support NGOs.

If victims do not have a sufficient command of the German language, an interpreter shall be called in. No additional record shall be made in the foreign language; however, testimony and declarations given in the foreign language should also be included in the case-file.

Foreign victims of crime committed on the territory of **Hungary** who are entitled to support and compensation, include EU citizens, citizens of other countries lawfully residing in the territory of the European Union, stateless persons lawfully residing in Hungary, victims of human trafficking, and any other person deemed eligible by virtue of international treaties concluded between their respective states of nationality and the Republic of Hungary or on the basis of reciprocity.

Regarding Hungarian victims abroad, the applicable provisions do not guarantee financial support to family members, the return of remains to Hungary being an example of such type of support. However, assistance may be provided to arrange funeral details abroad.

Regarding the **Spanish** Act on the Recognition and Comprehensive Protection of Victims of Terrorism, there is no reference or difference that is made between Spanish or foreign victims of acts of terrorism that take place in Spain. The General Directorate for the Support of Victims of Terrorism deals with all victims of terrorism, regardless of their nationality or their residence status (or legality thereof). Victims who do not speak Spanish will be provided translation free of charge.

Following the Madrid bombings on March the 11th of 2004, a number of foreign victims and their family members received compensation.

Spanish naturalisation laws were used to extraordinarily grant Spanish nationality to foreign victims of terrorism, to acknowledge their loss and pain.

Spanish nationals who are victims of terrorism abroad will also receive the same level of protection, regarding compensation and support. However, if they are residents of the country in which the attack has happened, they will have a right to 50% of the compensation they would otherwise be entitled to.

British nationals affected by terrorism overseas can receive a range of support services from the Foreign and Commonwealth Office. However, 'generally, there is no legal right to consular assistance'. The exact support that can be provided is likely to depend on a number of factors such as the circumstances of the incident, the specific needs of the individual and the willingness of the host government where the incident occurred to provide care and support to an acceptable standard, but might include: support if you have suffered injuries; information about support organisations, lawyers, doctors, interpreters and local police; help contacting friends and family of victims and assisting relatives who wish to come out to the scene. In the event of a large-scale emergency, the FCO Crisis Management Team will likely deploy a Rapid Deployment Team alongside psychological support officers from the British Red Cross and contingencies from the UK police to assist consular staff on the ground and support any UK nationals who require help. Further, a dedicated information hotline may also be established by the FCO to provide British nationals with a clear point of contact.

Under an arrangement with the FCO, families bereaved through terrorism (provided they are residents of England or Wales or the deceased is a British national) will also be offered support from the national Homicide Service delivered by Victim Support. This is an identical arrangement to that of families bereaved through murder in England and Wales.

Furthermore, specialist support for people who have been affected by terrorism is provided by the Foundation for Peace through the 'Survivors' Assistance Network'.

British nationals, through acts of terrorism abroad, may also be eligible for Exceptional Assistance Measures. British citizens and close relatives or family members may also be able to claim compensation under the Victims of Overseas Terrorism Compensation Scheme. (Please see section 3.3.2.5 for further information).

In line with the EU Victims Directive, victims of crime in England and Wales who are resident of another Member State are entitled to participate in criminal proceedings and receive information, support and protection under the Victims' Code of Practice. The Directive states that victims of crime should be 'treated without discrimination of any kind', which includes matters of residency. The Code entitles victims who do not speak English to ask for certain documents and information to be translated into another language, such as a written acknowledgement that you have reported the crime, details about a trial or the outcome of criminal proceedings. Where this is requested, the relevant service provider has a duty under the Code to provide it at no financial cost to the victim. Victims who do not speak English are also entitled to the use of interpretation at three stages of the criminal justice process: when reporting the crime; when being interviewed by the police; and if they are required to give evidence as a witness. More broadly, the Code places an obligation on service providers to take 'appropriate measures to assist the victim to understand and be understood'.

Regarding British victims of terrorism abroad, immediate financial assistance is available to British residents affected by an act of terrorism abroad, declared as such by the Foreign and Commonwealth Office, from the Red Cross Relief Fund (funded by the Government). It applies to those who have been seriously injured (hospitalised for 12 hours or more) and/or bereaved as a result of an incident. A payment of £3,000 or £6,000 (in cases where a person is both seriously injured and bereaved) will be made to eligible claimants within 24 hours of the request being made. Providing the individual has not travelled against the advice of the FCO and their insurance provider or employer does not ordinarily cover the costs, Exceptional Assistance Measures may also be available. Exceptional Assistance Measures were introduced in 2004 and used only in extreme circumstances as a last resort. Support that may be provided to people directly affected and their families, includes financial assistance to cover the cost of immediate medical expenses incurred as a result of the incident. It does not cover longer-term medical care in the UK.

4.1.2.7. Member State response to specific aspects of terrorist victimisation

In **Belgium**, a number of peer-support groups were put into place, and further action has been taken to prevent and treat PTSD, which is a key task for Victim Support services and in the psychological component of disaster planning.

Considerable attention was paid to the needs of children after the terrorist attacks by public broadcasting services. Their programmes for children and youngsters were not only informative but also dealt with emotional aspects, thereby showing how adults can relate to children in such circumstances. Brochures and information on how to deal with children and victims in general are available for the education system and the wider public. Victim Support Services are required to provide consultation sessions on request to schools and other education institutions.

Nonetheless, victims from minority backgrounds are often not reached by Victim Support services. More attention is required to establish how support services can best be organised for these individuals and groups.

Trauma and other treatments of victims of terrorism are not a pertinent issue in **Hungary**, not even after the terrorist attacks in Paris of 2015 nor after the other attacks that subsequently took place elsewhere in Europe. Given that Hungary is a country of lower terrorist threat, Hungarian nationals in other countries are more prone to fall victims to terrorism, if at all. The numbers are very low, especially compared to other EU Member States. There was one Hungarian victim who lost his life in the Munich attack of June 2016²²¹, whereas the Hungarian victims of terrorist attacks suffered various casualties²²².

4.2. Responding to victims' needs over time

The following flowchart presents a brief overview of some of the factors that should be taken into consideration when developing a response mechanism to support victims of terrorism in their rights and needs.

²²¹ Ultras Info, *Megvan a terrorizmus első magyar áldozata* (in Hungarian only), undated, <http://ultrasinfo.com/megvan-a-terrorizmus-első-magyar-áldozata/>

²²² Previous terrorist attacks where victims included Hungarian nationals are the Schwechat Airport attack in 1985 (3 persons), the Lockerbie incident in 1988 (4 persons), the 2005 attack in London (one person), the attack in Nice 2016 (one person) and the attack in Berlin (3 persons).

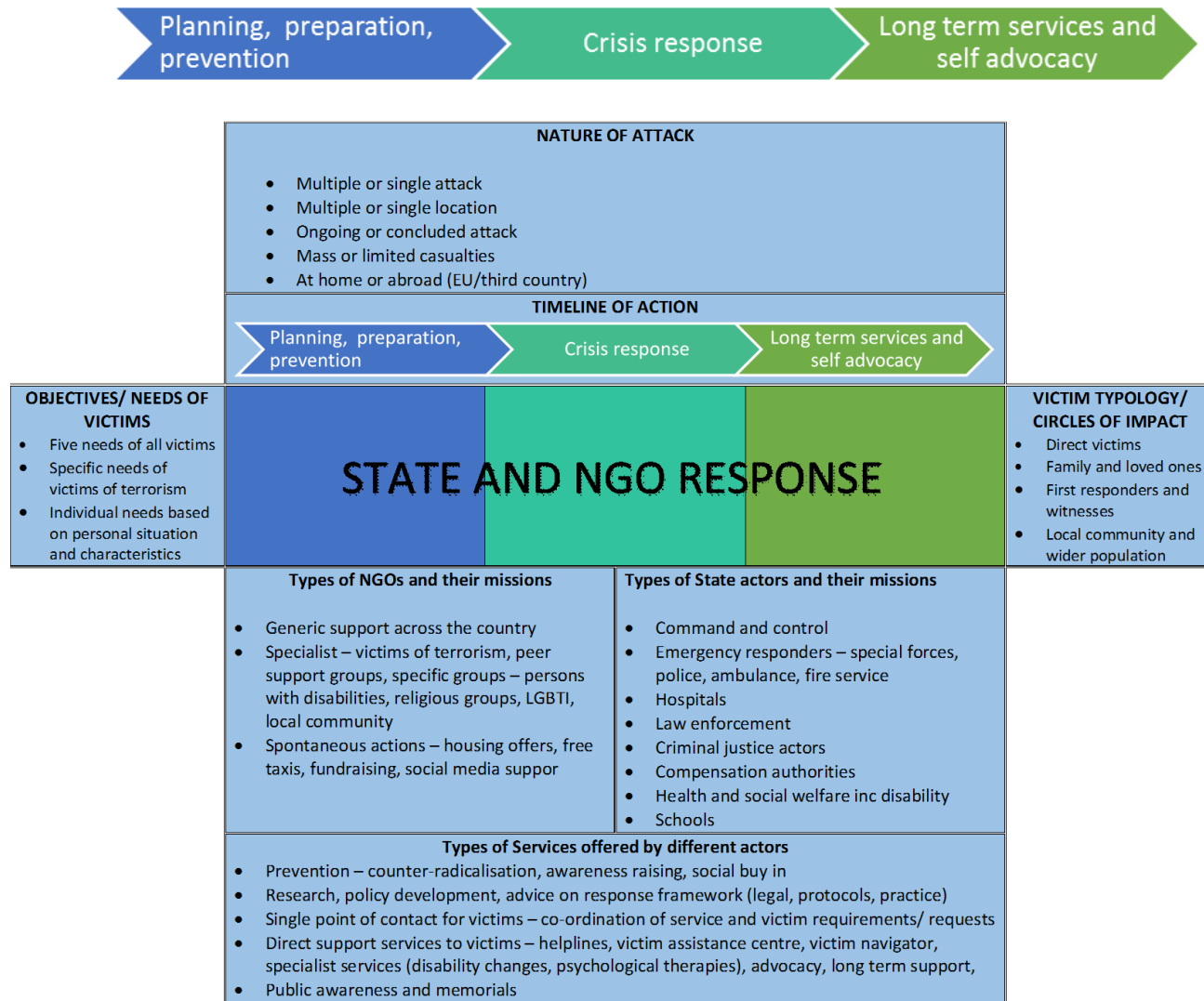


Figure 9 – Determining victim oriented intervention

The aftermath of the Madrid bombings: Evolving needs of victims – a case study

In the morning of March the 11th of 2004, Madrid was hit by horrendous terrorist attacks at the Cercanías commuter train system of the city. A total of 192 people from 18 countries were killed in the attacks, another 2000 were physically injured and many more were psychologically affected. The Madrid train bombings are the deadliest terrorist attacks in Spain. The attacks took place three days before Spain's general elections and were carried out by an al-Qaeda-inspired terrorist cell.

This case study follows the path of the Madrid bombings through the eyes of the victims and their changing needs. Victims' testimonies, reports and articles allow for a victims' perspective in the complex aftermath of terrorist attacks.

LIFE AFTER THE ATTACKS

Given the high number of deceased, injured and victims present during the attacks in Madrid, the needs for support both immediately after the attacks as well as on the long-term, are myriad and far-reaching. Immediately after the bombings on March the 11th of 2004, a nightmare began for hundreds of families. From the minutes after the news of the attacks came out to days afterwards, families were looking for their loved ones. Many families share the story of Angeles Pedrero, going from hospital to hospital looking for their daughter, husband, or family member. As for many victims of terrorism, these moments of insecurity and helplessness can be extremely traumatising. Not surprisingly, these moments remain engraved in most victims' memories and will impact their well-being for many years to follow, if not forever.

The deceased were moved to IFEMA, the largest convention centre in Madrid, for identification

by their relatives. Hundreds of relatives were going through excruciating hours of uncertainty waiting for their names to be called. As a psychologist described: "the worst of the night has been the uncertainty of many relatives, who were already in IFEMA but still believed that their relatives could be in hospitals."²²³ A scientific study in Madrid showed that the time interval between hearing about the events and finding out that one's loved ones are safe, is directly linked to exacerbated psychopathological reactions²²⁴. Victims of the Madrid attacks, similar to victims of other attacks, repeat their feeling of being lost immediately after the attacks, thinking 'this can't be true'. This thought and feeling is strongly linked to the development of post-traumatic stress reactions later on. The need for information in those moments is crucial and "An information support system was not available but was developed throughout the day, which, among other things, involved some conscious departures from the laws concerning confidentiality."²²⁵ Forensic and scientific police teams had identified 155 of the total 191 bodies and notified relatives after 24 hours. Special investigations were set up to ensure identification of migrant victims whom were not reported as potential victims²²⁶.

During the identification process, Red Cross volunteers and medical staff have provided food, water and blankets to family members, who have been assisted by teams of psychologists and psychiatrists at all times. To ease the practical difficulties during the identification processes, taxi drivers volunteered to bring victims' families anywhere they wanted to go, families in the neighbourhood opened their doors for victims²²⁷. In the immediate aftermath relatives and victims received an 'outpouring of support' by psychologists, social workers and even famous Spaniards offering food and moral

²²³ Libertad Digital, *La mayoría de las familias de los fallecidos en los atentados ha recuperado ya los cuerpos*, 12 March 2004, available at: <http://www.libertaddigital.com/sociedad/la-mayoria-de-las-familias-de-los-fallecidos-en-los-atentados-ha-recuperado-ya-los-cuerpos-1276217567/>

²²⁴ Miguel-Tobal J. J., Vindel A. C., Iruarrizaga I., Ordi H. G. and Galea S., *Psychopathological repercussions of the March 11 terrorist attacks in Madrid*, 2005, available at: https://www.researchgate.net/publication/28106121_Psychopathological_repercussions_of_the_March_11_terrorist_attacks_in_Madrid

²²⁵ Boiling R., Ehrlin Y., Forsberg R., Rüter A., Soest, V. Vikström T. and Brändström, H. *KAMEDO Report*

90: terrorist attacks in Madrid, Spain, 2004, *Prehospital and disaster medicine*, 22(3), 252-257. Chicago

²²⁶ Cadena Ser, *Horas de dolor y llanto en la morgue de Ifema - 124 cadáveres han sido ya identificados*, 12 March 2004, available at: http://cadenaser.com/ser/2004/03/12/espana/1079052612_850215.html

²²⁷ Libertad Digital, *La mayoría de las familias de los fallecidos en los atentados ha recuperado ya los cuerpos*, 12 March 2004, available at: <http://www.libertaddigital.com/sociedad/la-mayoria-de-las-familias-de-los-fallecidos-en-los-atentados-ha-recuperado-ya-los-cuerpos-1276217567/>

support^{228,229}. Many victims of the attack greatly appreciated the professional support provided but still point to the devastating nature of the experience that left each victim alone in the midst of a crowd of professionals²³⁰. The psychological support for victims of this large-scale attack was set up in Gregorio Marañón hospital in Madrid, where more than 600 relatives had gathered within hours. It was clear that the large-scale psychosocial care was not planned for, but various swift initiatives set up a large-scale psychosocial response for all the families. Lessons were learnt from the immediate identification and support processes improving a response to an aerial disaster in 2008^{231,232}. The post-traumatic stress symptoms and the psychological burden in victims of the Madrid bombings were very high and continued for months and, for some victims, years after the attacks. Policy measures were taken to introduce new and more intense follow-up of victims of terrorism and their relatives²³³. Testimonies of victims of the Madrid bombings later point to the lasting need for psychosocial or psychiatric support, up until today more than thirteen years later. The very high number of psychological symptoms and disorders underwrite the need for specialised and long-term psychological care. Relatives of deceased victims still have to take medication to be able to sleep and function²³⁴ and are reminded on a daily basis of their suffering and loss. About 30% of all victims still suffer from psychological disorders like post-traumatic stress symptoms, anxiety and depression thirteen years after the attacks²³⁵. To ensure the psychological and

social needs of children were met, mobile units actively visited schools in the affected area to identify and support traumatised children²³⁶. Whilst being met with initial disregard, many children supported these mobile teams. Without underestimating the negative psychological consequences, victims of the Madrid bombings made testimony of their growth as people: "But during the days I spent in hospital, I realised the bombings make you grow as a person. Firstly, because you do not know your value and strength until you are pushed to the limit. That's when a hidden part of you comes out. So, I believe the vast majority of the victims in some way or another grow as people."²³⁷ As after other terrorist attacks, many of the victims had problems with going to school or going to work. Many victims are not able to work years later²³⁸. While we find ourselves more than a decade after the attacks, the victims and professionals continuously testify to the psychological, vocational, social and practical consequences victims of the Madrid bombings live day in day out²³⁹. The impact of a terrorist attack on the lives, daily functioning and quality of life of only direct victims as well as family members and friends cannot be underestimated. "My life changed entirely. In my biography, you could say, there was a before and an after that day."²⁴⁰ The support needs for victims of terrorism change throughout the years while physical, psychological and practical needs overwhelm victims in the hours after the attack, and additional social, financial and vocational needs can mark a victim's life forever. Testimonies of victims of the M-11 attacks show the non-linear

²²⁸ Interview with Angeles Pedrero

²²⁹ Libertad Digital, *La mayoría de las familias de los fallecidos en los atentados ha recuperado ya los cuerpos*, 12 March 2004, available at: <http://www.libertaddigital.com/sociedad/la-mayoria-de-las-familias-de-los-fallecidos-en-los-atentados-ha-recuperado-ya-los-cuerpos-1276217567/>

²³⁰ Interview with Angeles Pedrero

²³¹ El País, *Catástrofe aérea en Madrid: Ifema revive el 11-M - El pabellón número 6 vuelve a convertirse en una gran morgue*, 21 August 2008, available at: http://elpais.com/diario/2008/08/21/espana/1219269606_850215.html

²³² ABC, *Ifema habilitó 10.000 metros cuadrados de morgue para las víctimas de Barajas*, 23 August 2008, available at: <http://www.abc.es/20080823/madrid-madrid/ifema-habilito-metros-cuadrados-20080823.html>

²³³ Fraguas D., Teran S., Conejo-Galindo J., Medina O., Cortón E. S., Ferrando L. and Arango, C., Posttraumatic stress disorder in victims of the March 11 attacks in Madrid admitted to a hospital emergency room: 6-month follow-up. *European psychiatry*, 21(3), 2006, 143-151.

²³⁴ Interview with Angeles Pedrero

²³⁵ El diario, *Casi un 30% de víctimas del terrorismo padece trastornos después de décadas*, 26 June 2017, available at: http://www.eldiario.es/politica/victimas-terrorismo-trastornos-despues-decadas_0_658634618.html

²³⁶ Boiling R., Ehrlin Y., Forsberg R., Rüter A., Soest V., Vikström T. and Brändström H. *Kamedo Report 90: terrorist attacks in Madrid, Spain*, 2004. Prehospital and disaster medicine, 22(3), 252-257. Chicago, 2007.

²³⁷ Aljazeera, *Madrid bombing survivors 'unable to forget'*, 10 September 2011, available at: <http://www.aljazeera.com/indepth/spotlight/the911decade/2011/09/2011910142615700890.html>

²³⁸ Ibid.

²³⁹ ABC, *Madrid rinde homenaje a las víctimas del 11M*, 11 March 2017, available at: http://www.abc.es/sociedad/abci-madrid-rinde-homenaje-victimas-5356203357001-20170311010324_video.html

²⁴⁰ Aljazeera, *Madrid bombing survivors 'unable to forget'*, 10 September 2011, available at: <http://www.aljazeera.com/indepth/spotlight/the911decade/2011/09/2011910142615700890.html>

nature of needs of victims of terrorist attacks. More victims have post-traumatic stress symptoms six months later than they do one month after the attack, many victims need additional psychological support on anniversaries of the attack or meaningful dates for the victim or relatives. Financial problems arise for many victims of the attacks and are exacerbated by the financial crisis in Spain years after the attack²⁴¹.

For many victims, although not all²⁴², the associations for victims of terrorism are an immensely important point of support and healing. Victims' associations in Spain (e.g. AVT and 11-M) bring together victims of terrorist attacks but have also a long history in providing and facilitating professional, psychological and legal support across the country²⁴³. As for many victims' associations for victims of terrorism, the leaders are victims themselves dedicating their lives to these associations²⁴⁴. Associations can constitute a lifeline for victims who express the need to be with other victims. "We have realised that the victims where we are best are victims, because we understand each other better."²⁴⁵ The importance of these Victims' associations is not met with sufficient government funding however²⁴⁶. Victims also testify to their friends they have lost along the way. Studies have shown how social problems in victims of terrorism will increase over time while other problems know a steady decrease. Also, after the Madrid bombings, victims had difficulty picking up their social lives.

After the Madrid bombings, studies showed that feelings in the general public were those of sadness, disgust, anger and contempt. One month after the attack, the general population showed panic attacks, depression and post-traumatic stress symptoms with a clear increase in persons living in the affected areas and in women. "In the month after the attack, 9.5% of the population in Madrid was affected

by depression or post-traumatic stress, 8,4% of which can be attributed to terrorist bombings". Most of these negative emotions showed a decline after a few months. While extensive public health studies are lacking, as after most terrorist attacks, research showed that the incidence of premature rupture of membranes was higher in the weeks after the Madrid train bombings²⁴⁷.

TRUTH

The conservative government in power in March of 2004 had pointed to ETA as being the author of the attack, but the evidence compiled the following days pointed to the workings of an Islamist group. On the 12th of March, the Spanish government organised a demonstration to condemn ETA, which was at the time blamed for the attack, with 2 million people marching. The following day, millions of protesters took to the streets around Spain calling for the government to tell the truth, end the war in Iraq and revamp democracy.²⁴⁸ In total, there were 11 million demonstrators representing 28% of the whole Spanish population. Spain turned against its leaders and voted them out of power three days later. Judges were again firm at the end of the trial to deny ETA was responsible for the attack²⁴⁹.

Controversy and mystery overshadowed the investigations into the terrorist attacks. Incitation and blaming of ETA by the government immediately after the attack set the tone for further controversies on the events, prevention by the government, a thirteenth bomb, up until today, the call for truth around the Madrid bombings has not ceased. The victims and victims' associations repeatedly and publicly ask to know the truth based on objective facts about what has happened before, during and after the attacks²⁵⁰. In 2017, the Spanish Association Víctimas del Terrorismo

²⁴¹ The Guardian, *Madrid bombing victims still struggling ten years on*, 9 March 2014, available at: <https://www.theguardian.com/world/2014/mar/09/madrid-bombing-victims-ten-years-support>

²⁴² El mundo, Alberto, *huérfano del 11-M: Cuanto menos drama, mayor*, March 2016, available at: <http://www.elmundo.es/madrid/2016/03/11/56e1cd7146163fdc558b456d.html>

²⁴³ Diario Cordoba, Angeles Pedraza Portero: *Su hija, asesinada el 11-M, planeaba vivir en La Carlota*, 1 November 2011, available at: http://www.diariocordoba.com/noticias/cordobalocal/angeles-pedraza-portero-hija-asesinada-11-m-planeaba-vivir-carlota_674159.html

²⁴⁴ Ibid.

²⁴⁵ Ibid.

²⁴⁶ The Guardian, *Madrid bombing victims still struggling ten years on*, 9 March 2014, available at:

<https://www.theguardian.com/world/2014/mar/09/madrid-bombing-victims-ten-years-support>

²⁴⁷ Santos-Leal E., Vidart-Aragon J. A., Coronado-Martin P., Herraiz-Martinez, M. A. and Odent, M. R. *Premature rupture of membranes and Madrid terrorist attack*, *Birth*, 33(4), 2006, 341-341.

²⁴⁸ Fominaya C. F., *The Madrid bombings and popular protest: misinformation, counter-information, mobilisation and elections after '11-M'*, *Contemporary Social Science*, 6(3), 2011, 289-307.

²⁴⁹ Reuters, *Court finds 21 guilty of Madrid train bombings*, 31 October 2007, available at: <https://www.reuters.com/article/us-spain-trial-idUSL308491320071031?pageNumber=2&virtualBrandChannel=0>

²⁵⁰ ABC, *Madrid rinde homenaje a las víctimas del 11M*, 11 March 2017, available at:

again launched a public call for the government to bring out the whole truth around the M-11 attacks.

REMEMBRANCE

On March the 13th, demonstrators came out to remember the 192 lives lost and the hundreds of victims of the terrorist attacks.

The day marking the eighth Anniversary of the Madrid Bombings, the unions and PSOE decided to hold political marches against labour reforms. The Spanish association for victims of terrorism (AVT) publicly responded to this initiative, expressing their disappointment with this initiative disrespecting the memory and dignity of the victims of the Madrid bombings²⁵¹. It showed again the importance of remembrance and the unceasing determination of the victims to honour March the 11th as a day for the victims, now and forever. Thirteen years after the attacks, the city and government officials continue to use these days to express their unwavering support, affection and accompaniment for the victims²⁵². Up until now, in 2017, the commemorations are held and attended by victims, victims' associations, public and high placed government officials²⁵³. In the aftermath of the 11-M bombings Renfe and the city council published a competition to design a physical memorial in memory of the victims. Controversy rose as to whether or not the monument should be dedicated to all victims of terrorism in Spain or only the victims of the 11-M bombings. In the end, a tall cylinder rising out of the ground in front of the Atocha train station was dedicated to the victims of the Madrid bombings. Not long afterwards, the first repairs of the monument were needed. While the city repeatedly promised and submitted a draft budget for their contribution to the repairs, the costly repairs were not carried out

as planned. The moving memorial site offers victims a peaceful homage, while the controversy around the attacks was amplified by the controversy around the repairs of the monument²⁵⁴.

LESSONS LEARNED

The above story offers some insight in the aftermath of the 11th of March terrorist attacks in Madrid and sheds light on the complexities of understanding and responding to victims' needs, not only immediately after the attack but also in the long run.

The lives of victims of terrorist attacks, both physically and psychologically injured, as well as relatives of the deceased, are impacted forever after a terrorist attack. **The immediate aftermath can be highly traumatizing**, especially if it is lived in a context of uncertainty and lack of communication. The Spanish government had the courage to wave **rules and legislation on privacy** to ensure victims' families were provided with swift and correct information so they do not have to go through unnecessary additional suffering. **Large-scale psychosocial support** was provided to hundreds of victims and led by professionals. **Active identification and support for children** was carried out by the mobile psychosocial units, although concerns were expressed by victims' associations on the limited support and funding for support of the victims of the Madrid bombings.

In Spain, controversy enclosed the government's response as well as the following investigation and trial. The importance of remembering the victims of the Madrid attacks is reflected in the annual remembrance of the victims. Truth and justice are pivotal concerns of victims up until today, and strongly impact their well-being.

Terrorism, in particular, large scale attacks, result in significant damage and can disrupt entire cities and communities. An effective response will require the coordination of a large number of responders, many different authorities, organisations and professions. An effective response requires a range of infrastructures and a sudden influx of emergency funding.

http://www.abc.es/sociedad/abci-madrid-rinde-homenaje-victimas-5356203357001-20170311010324_video.html

²⁵¹ La razon, *Un ataque a la memoria por Ángeles Pedraza*, 7 March 2012, available at:

<http://www.larazon.es/historico/2365-un-ataque-a-la-memoria-por-angeles-pedraza-TLLA-RAZON-440427>

²⁵² La vanguardia, *Madrid vuelve a recordar este sábado a las víctimas del 11M*, 11 March 2017, available at:

<http://www.lavanguardia.com/politica/20170311/42778824447/madrid-vuelve-a-recordar-este-sabado-a-las-victimas-del-11m.html>

²⁵³ ABC, *Madrid rinde homenaje a las víctimas del 11M*, 11 March 2017, available at:

http://www.abc.es/sociedad/abci-madrid-rinde-homenaje-victimas-5356203357001-20170311010324_video.html

²⁵⁴ Honor the Victims of Terrorism, *Remembering 11-M: The Madrid Atocha Train Station Memorial*, 7 May 2014, available at:

<https://honormonument.org/2014/05/07/remembering-11-m-the-madrid-atocha-train-station-memorial/>

At the same time, the situation of victims themselves will evolve. From the first minutes and hours after an attack, to the following days, weeks and year, the needs of victims will change and Member State policies and services need to be responsive and sensitive to those changes.

In terms of a Member State response framework, this evolution needs to address three phases:

- Planning and preparation
- Immediate response
- Long-term support

The Combatting Terrorism Directive recognises this fact, requiring that a comprehensive response to the specific needs of victims of terrorism immediately after a terrorist attack and for as long as necessary is provided within the national emergency-response infrastructure' by the Member States. Moreover, there is also an obligation for 'Support services to take into account the fact that specific needs of victims of terrorism may evolve over time. In that regard, the Member States should ensure that support services address in the first place at least the emotional and psychological needs of the most vulnerable victims of terrorism, and inform all victims of terrorism about the availability of further emotional and psychological support, including trauma support and counselling²⁵⁵.'

4.2.1. Planning, preparation and prevention

To properly respond to terrorist victimisation, advanced planning is necessary. This plan normally engages a number of different elements and services: medical emergency, firefighters, police, military, social workers, to name but a few. To properly handle a crisis, each of the elements to response are equally important. To date, however, it is not uncommon for victim-support organisations and professionals to form part of the planned response system.

In some systems, victim-support organisations are included in this preparation, and their participation is crucial for adequately responding to the threat. Their involvement in the preparation of any response mechanisms is fundamental to ensuring they are victim-oriented. Indeed, just as police officers would not expect victim workers to explain how to carry out counter-terrorism operations, a planner should not expect the first responders to know in detail what are the victim requirements of the response.

Victim support organisations or professionals should be part of both the planning and the response. In some countries, such as in Spain, France and the UK, special governmental departments for victims are involved in crisis planning. Similar practice also exists outside Europe.

For example, the American Red Cross (ARC) is the main partner of the Department of Justice's Office for Victims of Crime (OVC). They are also designated by the National Transportation Safety Board (NTSB) as the lead family assistance provider following aviation disasters. ARC disaster relief services are activated immediately after an air disaster, usually before the cause of the crash has been determined.

²⁵⁵ Recital 29

As part of the planning and preparation activities, the ARC implemented in 1999 a weapons of mass destruction/terrorism program to ensure that chapters across the Nation and in all lines of service are prepared to respond to terrorist incidents. This comprehensive program enabled both agencies to effectively meet unforeseen challenges and provide needed assistance to the victims of 9/11²⁵⁶. Importantly, ARC includes specialised support experts within its infrastructure. In other countries, whilst the Red Cross may be responsible for emergency assistance, shelter etc., the State may rely on a separate body to offer specialist support services, outside of the national Red Crosses remit.

4.2.2. Training of professionals

It is not sufficient to have victim-oriented procedures and systems in place. It is equally essential that persons who come into contact with victims of terrorism treat them with respect and dignity, recognise their needs and most importantly cause no harm or secondary victimisation. Training of professionals, as well as volunteers who will be involved in providing support to victims, is a fundamental component in achieving this objective.

This necessity is recognised by the Victims' Rights Directive, in Article 25:

'1. Member States shall ensure that officials likely to come into contact with victims, such as police officers and court staff, receive both general and specialist training to a level appropriate to their contact with victims to increase their awareness of the needs of victims and to enable them to deal with victims in an impartial, respectful and professional manner.

2. Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall request that those responsible for the training of judges and prosecutors involved in criminal proceedings make available both general and specialist training to increase the awareness of judges and prosecutors of the needs of victims.

3. With due respect for the independence of the legal profession, Member States shall recommend that those responsible for the training of lawyers make available both general and specialist training to increase the awareness of lawyers of the needs of victims.

4. Through their public services or by funding victim support organisations, Member States shall encourage initiatives enabling those providing victim support and restorative justice services to receive adequate training to a level appropriate to their contact with victims and observe professional standards to ensure such services are provided in an impartial, respectful and professional manner.

5. In accordance with the duties involved, and the nature and level of contact the practitioner has with victims, training shall aim to enable the practitioner to

²⁵⁶ U.S. Department of Justice, *Responding to Victims of Terrorism and Mass Violence Crimes – Coordination and Collaboration Between American Red Cross Workers and Crime Victim Service Providers*, 2005, available at: <https://ojp.gov/ovc/publications/infores/redcross/ncj209681.pdf>

recognise victims and to treat them in a respectful, professional and non-discriminatory manner.'

In addition, the Directive also requires that persons who are likely to be involved in the individual assessment to identify victims' specific protection needs and to determine their need for special protection measures should receive specific training on how to carry out such an assessment²⁵⁷.

Training of professionals, who are involved in dealing with victims in both the immediate response and in the long term, is an important element for adequately responding to needs of victims of terrorism. Ultimately not only should victim supporters be trained but also wider groups of professionals and volunteers who come into contact with victims during the crisis response phase and in the long term. As recognised by the Council of Europe, this training should as a minimum, include awareness of the negative effects of crime on victims; skills and knowledge required to assist victims; awareness of the risk of causing secondary victimisation and the skills to prevent this²⁵⁸.

The training should lead to sensitisation of professionals and enable them to perform their function, while minimizing re-victimisation and ensuring that they provide their services in a manner which respects the needs of victims.

4.2.3. Immediate response

In the ensuing aftermath of a terrorist attack, an effective and speedy response of authorities is not only critical for the management and containment of an attack, but also for the immediate and long-term welfare of the victims.

In developing and implementing any crisis response, many similarities exist between disaster response techniques and terrorism-related action. Nevertheless, the very act of an intentional crime also requires specific approaches from both a law enforcement and victim support perspective. As such, mass-criminal victimisation demands specialised response strategies that addresses the complex toll on people²⁵⁹.

'While emergency management and crisis response is focused on public safety and saving people's lives and ensuring their immediate safety, for the most part, these models were not developed to take into account the human impact of mass criminal incidents and did not recognise the social, psychological, and economic toll that might manifest itself in physical or emotional symptoms²⁶⁰.'

A terrorist attack is traumatic for a wide range of individuals and institutions, but it most directly affects the victims and their families. People have different reactions to victimisation, which are influenced by a number of factors, such as the personal circumstances and the characteristics of the threat.

²⁵⁷ Recital 61

²⁵⁸ Recommendation Rec(2006)8 of the Committee of Ministers to member states on assistance to crime victims, Adopted by the Committee of Ministers on 14 June 2006 at the 967th meeting of the Ministers' Deputies

²⁵⁹ Hoag P., *Responding to September 11 Victims: Lessons Learned from the States*, US Department of Justice, August 2010.

²⁶⁰ Ibid.

'How well the victims' physical and emotional needs are met can have a significant impact on how well the victims are able to cope with the trauma. Prompt and efficient assistance and support to terrorism victims from the moment of the attack through to normalisation and beyond can have a positive effect on victims' mental health and ability to cope. Providing for practical needs in a compassionate way is a tangible expression of the care and concern for citizens who are victims of terrorism. Particular attention should be paid to the needs of children²⁶¹.'

It is therefore recognised that building the capacity of law enforcement and first responders to address the needs of victims in the immediate aftermath of a terrorist attack is of utmost importance to properly address the needs of victims of terrorism²⁶². Moreover, States have encouraged the pooling of resources at the national level for example by establishing a single authority responsible for steering and coordinating the various emergency services, for accompanying victims on a long-term basis, as well as by suggesting the creation of a single European clearinghouse, a unique telephone number and a single internet portal²⁶³.

What experience has shown, so far, is that there are a number of good practices that are transferrable and that can ensure that the needs of victims of terrorism are addressed as early as possible. Some of the good practices identified in this regard are as follows:

Develop a multidisciplinary crisis response team that includes victim assistance professionals. Regardless of whether the State has a special unit to respond to terrorism, or if general emergency crisis response teams are responsible for responding to a terrorist threat, it is important to ensure the participation of law enforcement, first responders (medical, firefighters etc.), victims' associations and other civil society organisations. The crisis response team should be established in advance and should train together regularly and should try to access the scene of the attack as soon as possible.

Importantly, and uncommonly, victim-support professionals should be part of training exercises. In the chaotic scenes of a mass attack – particularly where a country has not experienced one before – it is easy for support professionals to be overwhelmed, potentially forgetting their training and protocols. Pressure testing is essential for all those who will be part of a crisis response team.

4.2.4. Managing public reactions and providing information

Taking into account the wider definition of victims, as a starting point, many members of the public will seek information on what has happened and what they should do. Whilst they may not be direct victims nor closely linked to such victims, some will be traumatised and a large number will at least have strong concerns.

A well-managed public information system is therefore essential to reassure people, help guide them and manage behaviour and reactions. A well coordinated system which provides

²⁶¹ GCTF, *Madrid Memorandum on Good Practices for Assistance to Victims of Terrorism Immediately after the Attack and in Criminal Proceedings*, 2012, available at:

https://www.thegctf.org/documents/10162/72352/13Sep19_Madrid+Memorandum.pdf

²⁶² Madrid Declaration on Victims of Terrorism, Article 5.

²⁶³ Joint statement of the representatives of the Governments of Belgium, the Czech Republic, France, Greece, Hungary, Italy, Spain and Romania, Guidelines for assistance to victims of terrorism. 10 March 2017, available at: http://www.gouvernement.fr/sites/default/files/contenu/piece-jointe/2017/03/quidelines_for_assistance_to_victims_of_terrorism.pdf

the right information to the public in a very short space of time strongly helps to minimise the impact of an attack. For example, after the MH17 plane shooting, a single website was established for the Dutch victims. Whilst a very informative site, it took a while to set up. Learning from that experience, Victim Support Netherlands is now able to launch a similar website in a matter of hours.

The nature of terrorist attacks means that many different organisations will be involved in the response, and the media and public will have a strong interest in what has happened and will happen next. These factors, combined with the speed of communications through social media, makes the provision of information from a single reliable source as quickly as possible, an essential element of the response mechanism. Information services should, as far as possible, be available on a 24 hour basis in the first days after the attack.

Such information should be available through a range of trusted sources including a single crisis helpline and website as well as through official social media accounts. After the many recent European attacks, Twitter and Facebook proved very effective media outlets for responders to communicate through. Importantly, the website can have both a public face and a private access area available to victims of the attack. Through the website, victims can obtain non-public information in a quick and easy way. At the same time, public interest needs must be balanced against the personal rights of victim of terrorism to be protected from the negative impact of publicity²⁶⁴.

Proper planning and co-ordination is required to ensure that such systems can be put in place quickly and effectively. Call handlers will need training, including on taking victim- friendly approach. Information to the public should cover a wide range of matters, including contacts for relevant services, advice on what to do and how the situation is progressing, as well as information on victimisation like impacts and possible reactions.

Mechanisms should also be in place to ensure that, when contact comes from a possible victim or family member, they are recognised as such and are handled either by professionals or their details are taken for future contact and proper handling by a trained support worker.

4.2.5. Identification of victims and management of information on them

Experience of various large-scale attacks in Europe has shown that it is particularly difficult to identify and obtain accurate details on the many victims that may be involved.

Yet, it is of utmost importance to identify victims as soon as possible to ensure that they and loved ones receive necessary support in the immediate and long-term period²⁶⁵. This is relevant not only in terms of identification of remains, as discussed above, but also in terms of identification of the surviving victims who, in a state of shock, might have left the scene²⁶⁶.

Where victims are seriously injured, the process of identification is relatively straightforward. However, for a wider group of victims including walking wounded and those without physical

²⁶⁴ *Ibid*

²⁶⁵ Following the 9/11 attacks, for example, a number of volunteers were cruising the streets of New York, armed with leaflets, raising awareness about what terrorist victimisation is, and giving practical information to potential victims, or their close ones, to be able to identify signs of victimisation, informing them about services available and how to reach out for support.

²⁶⁶ Hence, several victims from the scenes of the Paris attacks in November 2015 have not reported to the French authorities, but immediately returned home, abroad, where their minor injuries were treated.

injuries, the situation is more complex. Many people will not label themselves as victims, but simply be grateful to have escaped without any apparent harm.

Others may well have minor injuries but still be intent only on returning to loved ones. A wide range of people may not think to present themselves to authorities, yet the evidence shows they will be at risk of some level of psychological harm, and if left without support, this could lead to various symptoms of PTSD. Moreover, where an attack has involved a bombing, it is only later in time that victims realise they have hearing damage such as tinnitus. Traditionally, there have been few solutions for such hearing impairments, yet with advances in both medicine and psychology, victims' standard of living can be greatly improved. For example, today it is acknowledged that an important aspect of managing tinnitus is through mental training. People who may be affected should know as early as possible about these types of therapies.

Action needs to be taken at two levels. Firstly, there must be strong outreach efforts to inform members of the public what are normal or abnormal reactions, possible issues of concern, the existence of services and rights, what to do next etc. Local protocols should also be in place to ensure that a wide range of entities and professionals, including local doctors, are aware of the importance of referring victims or witnesses to appropriate services.

Relevant organisations should proactively reach out to victims identified through different sources like media interviews. Of course, a sensitive and respectful approach is required, but in essence, early awareness of support services amongst victims will increase uptake.

Two Dutch victims of the Brussels attacks rushed back home to the Netherlands immediately afterwards. They suffered minor injuries, which they had treated at home. Having been in the state of shock, they left without contacting neither Belgian nor Dutch authorities. Dutch victim support services found out about them only after having read a report about their story in the newspapers. They approached them and offered them services, which the victims gladly accepted. They were not aware that services were available.

At the second level, a clear data collection and management system should be planned and implemented. Key issues include what information on a victim should be collected, who should collect it and who should manage the information. For what purposes should the information be collected and how can it be shared efficiently and safely, taking into account data protection requirements. Importantly, organisations should be using the same database and

criteria for collecting information, which will enable future contacts to be made.

When victims provide information to the State, they should be informed of the potential uses of that information, who will have access to it, and whether it is likely to become public, and that they might be called to testify in court. To ensure victim safety, States should make every effort to protect contact information. More sensitive information such as medical, emotional, or mental health status should also be safeguarded from public disclosure to the extent that it is possible to do so²⁶⁷.

²⁶⁷ *Ibid.*

4.2.6. Establish an accessible one stop shop for support services

Support services should be made available to victims and family members through a single centre, which provides a safe environment for victims to be helped, receive information and to grieve.

Such services should take into consideration any unique victim characteristics that may limit accessibility. For example, services provided to child victims should be tailored to meet children's emotional and cognitive developmental capacity. In the acute crisis stage, attention should be focused on immediate victim needs and requests, addressing them in an orderly and prompt manner, and avoid burdening victims with elaborate administrative information that goes beyond what is strictly necessary during the emergency²⁶⁸. It is important to avoid information overload and to understand that victims may not be able to take on board the same information as they might normally do. Their memory and ability to process information will also change over time. This not only means that some information might need to be provided later, but that it might also be helpful to repeat previous information.

Victim assistance professionals should contact victims as soon as security and medical conditions allow to do so. The crisis response team can designate a member to provide information to victims and the families of those who are injured, killed, missing, or kidnapped. Information should be conveyed to victims and their families clearly and accurately²⁶⁹. Ideally, a single support professional will be designated to each family or victim. They will act as someone able to offer information, emotional support, and practical assistance, including by acting as the contact point for different officials, organisations and the media, to name just some of the ways they may assist victims.

Depending on the approach in a given country, this 'victim navigator' may come from the organisation that also offers long-term support, thus ensuring continuity of service. Given that trauma victims are suffering and the time it takes to establish trust between support worker and victim, such continuity can have important added benefits. Where different organisations have support responsibility at different phases, proper transition arrangements should be in place, and victims should be aware of them as early as possible, these arrangements taking into account their particular situation.

4.2.7. Provide immediate financial support to victims

The financial impact of terrorist victimisation is significant and long lasting. It is important that States are able to release emergency financial support to victims to ensure that the immediate financial impact of terrorist victimisation is mitigated. Such payment should not affect the victims' right to other forms of compensation, which is further discussed in section 2.3.6.

4.2.8. Ensure support for cross-border victims

With advancing technology, widespread use of the Internet, increased international tourism, and cross-border job opportunities, issues of violent crime and mass victimisation have become a major concern for agencies serving victims. In such circumstances, acknowledging

²⁶⁸ Ibid

²⁶⁹ GCTF, *Madrid Memorandum on Good Practices for Assistance to Victims of Terrorism Immediately after the Attack and in Criminal Proceedings*, 2012.

that terrorist victimisation is more and more a cross-border phenomenon, with a more significant impact on foreign victims is required and the immediate response needs to be adjusted accordingly. Language services should be made available, consular networks involved and engaged, international cooperation, both between governmental and non-governmental actors, supported and transport for victims and/or their family members to and from the place of victimisation ensured in the shortest period of time.

4.2.9. Long term support

A range of needs of victims of terrorism, in particular, in large-scale attacks are unique compared with the needs of victims of other crimes. Terrorism erodes the sense of security and safety people usually feel. This erosion of security exists both at the individual level and the community level. Terrorism challenges the natural need of human beings to see the world as predictable, orderly, and controllable. It creates longer-lasting mental health effects than natural disasters or accidents, and there tends to be a higher prevalence of PTSD. The consequences for both individuals and the community are prolonged, and survivors often feel that injustice has been done to them. This can lead to anger, frustration, helplessness, fear, and a desire for revenge²⁷⁰.

What is characteristic of terrorism is that the impact of victimisation on individuals can last for much longer periods of time than many other types of crimes. The nature of terrorism is such that, in many cases, investigations are complex and trials can often be politically sensitive. Furthermore, identification of remains of the victims may take a very long period of time or may prove impossible.

Moreover, victims may suffer from more severe or complex bodily harm and psychological consequences can be particularly severe. The combination of these factors, together with specific personal circumstances, cause long term suffering and increased risk of re-victimisation.

Additionally and globally speaking, 'victims often lack access to and a strong position in the criminal justice system—a problem that extends beyond the specific crime of terrorism.' In the long term, even more underdeveloped are empowerment programs for victims²⁷¹.

The nature, location and public interest in terrorist attacks are all factors which increase victims' exposure to trigger events. These are situations which may cause the victim to relive their trauma. For example, if the attack took place on public transportation, victims may have difficulty using such transport or may avoid it altogether. Loud noises and activities similar to what happened during or preceding the attack can cause similar problems. Similarly, new terrorist attacks or follow-up media reports, including on anniversaries, can all be difficult moments for victims.

Fifteen years after the attacks on the World Trade Center the remains of 1,113 victims — 40 % of the 2,753 who died — still have not been identified.

Five of the men accused of planning the assault still have not faced trial, four years after the trials were arraigned.

²⁷⁰ Hamblen J. and Slone L. B., *Research Findings on the Traumatic Stress Effects of Terrorism*, last updated February 2016, available at: <https://www.ptsd.va.gov/professional/trauma/disaster-terrorism/research-findings-traumatic-stress-terrorism.asp>

²⁷¹ Global Centre on Cooperative Security, *Strengthening Support to Victims of Terrorism Advancing Implementation of the Madrid Memorandum on Good Practices for Assistance to Victims of Terrorism*, 2014, available at: <http://www.globalcenter.org/wp-content/uploads/2014/10/19-Sept-2014-GCTF-Victims-project-description.pdf>

Support services need to consider these issues and be ready to proactively reach out to victims and advise victims in advance. For example, the US NGO Voices of 9/11, contacted its survivor network following European attacks, just to let them know the services were still there for them, and to recognise some of them may be affected by the attacks. They equally try to contact survivors before special programmes relating to 9/11 broadcast – particularly where they focus on certain individuals.

Of particular importance to cross-border victims, factoring in the mobility which characterises society today, support needs to be transferable across borders and follow the victim in the long-term wherever necessary.

Services must adapt their approach as the needs of victims change over time. Many, if not most victims, particularly those without life changing injuries, will be able to move on and start their 'new' post-attack lives. Nevertheless, their experience may result in an inherent vulnerability, a weakening in their resilience which may make them less able to cope with new stresses or trauma. Such difficulties can arise years after the crime but may be directly linked to it. In fact, it is not uncommon for all victims to go through up and down periods during their lifetimes. As a matter of fact, society as a whole goes through various phases of recovery after such a disaster, as can be seen in Figure 7.

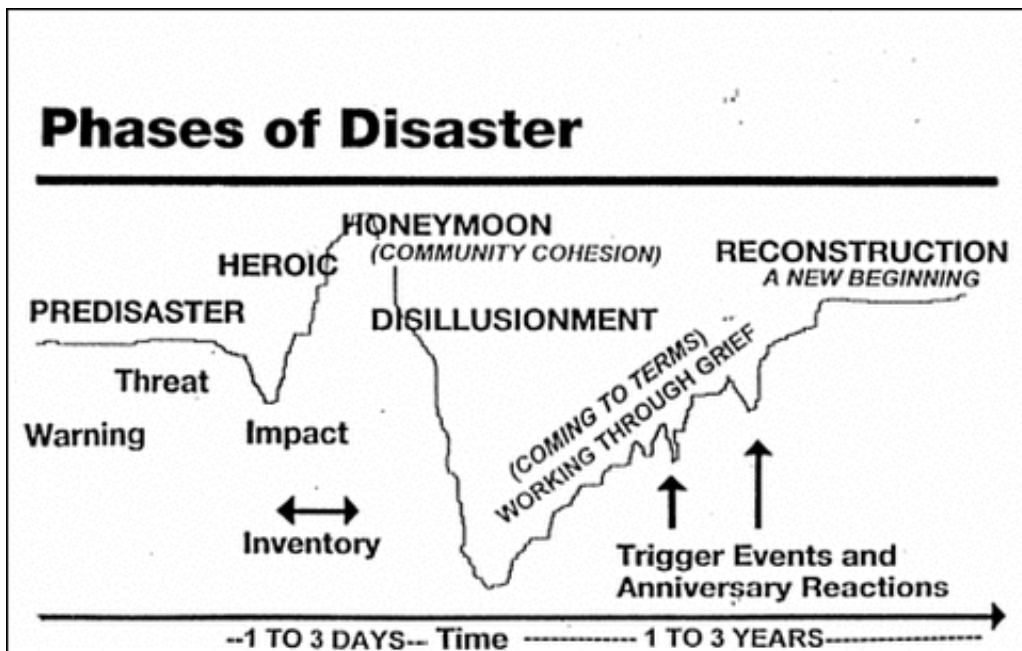


Figure 10- Phases of Disaster

Whilst many victims' situation improves over time, other victims' physical, psychological, financial and other needs may worsen. For example, a physical impairment may become a more serious and permanent disability – where a limb may eventually be amputated or where hearing damage becomes hearing loss. Shrapnel in victims may not be removable but may move in the body over time. All these situations can worsen a victims' welfare.

To cater for these changing needs implies a broad set of support measures, including those related to victims' housing (e.g. need to ensure accessibility of their existing home, or provide them with accessible housing), vocational training (the victim may be prevented from continuing with their previous job – for example, loss of sight can prevent people from performing in many professions), accommodations at work (ensuring that reasonable accommodations are put into workplace wherever possible and that the employers receive necessary support in that regard) or support in education. Of course, in many Member States, existing obligations relating to persons with disabilities are in place and services should already be available. To identify changing needs, a system of monitoring or check-ins needs to be put in place.

4.2.10. Member States' response to evolving victims' needs

All Member States examined in this study have some form of crisis planning and preparation mechanism, as well as a system of immediate response and long-term support.

In Belgium, crisis planning is organised at different administrative levels, but under federal jurisdiction. The approach to planning and preparation is that of multidisciplinary participation of five different disciplines, including: security operations; medical, sanitary and psychosocial assistance; police; logistics; and information. A Superior Institute for Emergency Planning is put in place, with the main purpose of organising specific activities of training and information regarding crisis planning at all levels of administration, taking into consideration the five disciplines and different risks that need to be covered. Victim support is planned and delivered through psychosocial assistance.

In France, apart from general crisis response planning, which includes security, police and logistics, there is a separate body, focused on supporting victims through a crisis – Interministerial Unit for Victim Support (*la Cellule interministérielle d'aide aux victimes*, CIAV). This unit encompasses representatives from several ministries and different public services, Red Cross and associations for victim support. The unit has for its primary task to provide individualised assistance to victims and their families. The structure was put into place in response to the attack on Charlie Hebdo, and got to be tested during the attacks in

IMMEDIATE RESPONSE IN FRANCE

Following the attacks in Paris on November the 13th of 2015, CIAV installed a 'makeshift' crisis centre in the Military School in Paris.

Support teams were set, composed of psychologists, health professionals, judicial police, representatives of the Ministry of Justice, and Ministry of Foreign Affairs, directly responding to the needs of victims and their loved ones. At this location, more than 800 persons were received, with more than 50 psychological consultations provided at the spot already on the first day.

Two days after the attacks, the Unit set up a reception point at the centre of forensic medicine, to confirm identifications and to ensure privacy for the families with the remains of their loved ones.

Moreover, CIAV has set up a special hotline, which received thousands of calls.

More than 110 staff of various ministries and victim-support organizations were engaged in the immediate response.

92 associations and members of France Victimes across the country took part in providing support to the victims of the attacks in November of 2015.

November of 2015. Long-term support is provided to victims through cooperation with victim-support associations.

In Germany, crisis response is the responsibility of the Federal Office of Civil Protection and Disaster Assistance (*Bundesamt für Bevölkerungsschutz und Katastrophenhilfe*, BBK). The office operates through several services: The Joint Information and Situation Centre of the Federal Government and the Länder, the German Emergency Planning Information System, the Warning Centre with the satellite-based warning system and the coordination office Aftercare, Support for Victims and their Relatives (*Koordinierungsstelle Nachsorge, Opfer- und Angehörigenhilfe*, NOAH). NOAH provides victims with information, supports them with administrative issues and ensures referral to specialist services. German network for victim support, Weisser Ring, gets regularly involved in the victim support in Germany. They also organise commemoration ceremonies, with victims' involvement. NOAH is also responsible for ensuring long-term support to the victims.

In Hungary, crisis response is ensured through the National Directorate General for Disaster Management, Ministry of the Interior. The Directorate is tasked with responding in the face of a crisis. In its planning, the Directorate appears to only focus on rescue and lifesaving interventions, whereas victim-support is not mainstreamed into the response system.

The Spanish Ministry of Justice runs a special service for victims of terrorism, the Directorate General for Support to Victims of Terrorism. The Directorate can provide support to victims of terrorism in terms of psychosocial, medical or financial support. Following a terrorist attack, as soon as the safety and health of the victims allow it, social workers from the Directorate contact the victims and their families to provide them with clear and accurate information. In the longer run, they also support victims in their claims for compensation, pensions, labour rights, subsidies and other benefits.

In the UK, crisis response is dispersed among several levels, some of the competencies pertaining to the central government, while others falling to devolved or local authorities. Nonetheless, there are several instruments which ensure a victim-centered approach, such as guidance for emergency planners and responders, which prepares crisis response teams to recognise people who are vulnerable in a crisis, guidance on emergency response and recovery, or guidance on emergency preparedness. All of these contain a focus on victims. Guidance on emergency preparedness, for example, encourages those preparing emergency plans to be aware of the extent and range of operational and support activities and services provided by victim-support organisations at all stages, from the planning stage to the response and recovery phases of emergencies²⁷².

4.3. Post November 2015 response

4.3.1. Belgium

In the Period after the Charlie Hebdo attack in January of 2015 and the subsequent attacks on November the 13th, the Belgian government introduced a number of initiatives designed

²⁷² Cabinet Office, Revision to Emergency Preparedness Chapter 14, The Role of the Voluntary Sector, revised October 2011, available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/61037/Chapter-14-role-of-voluntary-sector-amends-10112011.pdf

to counter terrorism. These were primarily aimed at the prevention, investigation and prosecution of terrorist offenses, measures concerning Belgian nationals going to fight abroad in conflicts related to terrorism and the monitoring of such individuals when they returned home from such conflicts. Since the attacks in Brussels however, policy makers' attention has also turned to the victims of terrorist attacks.

Measures are now being taken to guarantee a better transfer of **information** to victims and to the public. This includes processes to ensure more efficient and consistent registration of the names and addresses of victims and the activities of the crisis and communication centre. Attention is also being paid to the coordination of information provision but this work remains at an early stage. The availability of information in languages other than Flemish, French and German remains a concern.

The establishment of a Parliamentary Inquiry Commission into the terrorist attacks was an important step in the **recognition** of the victims of the terrorist attacks in Brussels. The Commission has evaluated the medical and psychosocial care provided to victims alongside issues relating to insurance and the reimbursement of healthcare and other costs. The Commission's recommendations regarding victims were published in May 2017.

The government departments responsible for organising **commemoration** ceremonies are now much more aware of the importance of involving victims and their organisations in the preparation of such ceremonies and in the actual activity itself.

As mentioned above, new laws on **interpretation and translation** in criminal proceedings have been adopted to bring Belgian law in line with the requirements of European legislation.

A single access point was introduced and the provisions relating to **compensation** have been simplified and amended, as already explained. Despite these changes, the system is still far from perfect. The main concerns now revolve around cases where a combination of insurance and state compensation co-exist. Such cases can take many months to resolve and the new system has done nothing to alleviate this problem. There are reports of cases where insurance companies refuse to allow victims to submit a claim a year after the attacks. Moreover, there are problems in assessing the appropriate amount of compensation in cases where the extent and permanence of the injuries remain unclear.

The new law concerning the legal status of terrorism victims will not be aimed to apply to all **foreign victims of terrorism** arising from crimes committed on Belgian soil. The Parliamentary Inquiry Commission has recommended that such victims would be able to claim similar levels of compensation from the Commission for financial assistance to victims, but it is not clear how or when the necessary legal changes to allow this to occur will be implemented.

The Parliamentary Inquiry Commission has recommended that a task force be set up, tasked with monitoring every aspect of victim care. They also recommend the introduction of a 'designated worker' for each victim. Principally, this is of course a good idea. The complexity of the Belgian state structure makes such a proposal difficult to implement, however.

The coordination of psycho-social support for victims after the acute stage of a terrorist attack remains ill-thought through and unclear for the organisations which must provide support to the victims concerned. This is an aspect of victim care which must be urgently addressed.

Throughout the legislative and policy process since the Brussels attacks, victims and victim support organisations have had to work hard to have their voices heard. The Parliamentary Inquiry Commission ultimately paid heed to the experiences and needs of victims but only after they put themselves on the agenda. The recommendations were made public on May the 2nd of 2017. Nonetheless, it would appear that consultations that were done in advance were not broad enough and have not provided enough balance between different stakeholders and the public as a whole.

In addition to, and as a result of these efforts, the Belgian government introduced a draft version of a law project pertaining to the recognition of victims of terrorism in February 2017. The law aims to introduce a statute for victims of terrorism that is first and foremost a symbolic and official recognition that they are victims of terrorism. Moreover, the law project introduces the allocation of a 'recovery pension' and the reimbursement of medical costs related to the terrorist attack.

In May and June of 2017, the draft law project was discussed, amended and approved by the Commission on Health and Justice in the federal parliament. Victims' associations have repeatedly expressed concerns with the proposed draft as it includes discriminatory elements, is highly complex for victims and risks to violate EU legislation and policies. The legislation was adopted on 18 July 2017 and is, according to the Belgian Government, an element of a larger revision of laws and policies to improve the support and recognition of victims of terrorism²⁷³. The adoption of the Belgian Law on the Statute of National Solidarity should make it possible for victims of terrorism in Belgium to apply for a statute of national solidarity, the award of a recovery pension and the reimbursement of medical costs resulting from the terrorist attack. Minister of Justice Koen Geens has also set up a task force for support to victims of terrorism, following the recommendations of the Parliamentary research commission. The first meeting of the newly created task force suggests that the Government's engagement in making the aforementioned changes in policies is a reality. Another legislative initiative, which aims to set up a comprehensive compensation fund for victims, is also programmed to be put into procedure by the end of 2017.

2.4.2 Hungary

In Hungary, there have been no policy/legislative responses concerning victims of terrorism as a direct consequence of the attacks in Paris in November 2015. The Hungarian Government is currently developing a new Victim Protection Strategy, which should be adopted by the end of 2017.

There are various factors that triggered the need for a new strategy, none of which relate to terrorism or victims of terrorism. According to the official justification the main reasons for the new strategy were: the rise in unreported crimes, better outreach to civil society, and the reorganisation of the victim-support portfolio within the government. The main objectives of the strategy are to make victim-support more available, bring it closer to potential victims, launch a communication campaign on its availability, better coordinate with civil society, train law enforcement officials and provide better care for the traumatised by the involvement of more psychologists etc. One very particular objective of the strategy is to use the national

²⁷³ La Loi 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/ Wet betreffende de oprichting van het statuut van nationale solidariteit, de toekenning van een herstelpensioen en de terugbetaling van medische zorg ingevolge daden van terrorisme, available at: https://www.health.belgium.be/sites/default/files/uploads/fields/fpshealth_theme_file/wet_van_18.07.2017_-_loi_du_18.07.2017.pdf

structure of victim support to improve the situation of ethnic Hungarians living in the countries neighbouring Hungary. One of the now materialised objectives of the new strategy was to open a Crises Centre for Victims in downtown Budapest.

The recent terrorist attacks in the EU however led to policy changes in other regulatory areas which do affect policies regarding the notion of victims of terrorism.

Currently the EU victim's protection scheme based on Directive 2011/29/EU, applies to victims of criminal offences committed in the EU and to criminal proceedings that take place in the EU. It confers rights on victims of extra-territorial offences only in relation to criminal proceedings that take place in the Union. Hungarian legislation limits the reach of its victim-support to natural persons who have become victims on Hungarian territory, based on the relevant EU Directive. Neither EU legislation nor Hungarian domestic legislation provide support to victims of terrorist acts occurring outside the EU.

One consequence of this territorial limitation is that neither legislation at EU level nor the implementing Hungarian law encompass victims of such terrorist attacks that occurred outside the territory of Hungary or the EU where no criminal procedures follow. This has a bearing on both EU citizens and third-country nationals.

For EU citizens, this means that, due to the territorial limitation of the Directive, and Hungarian law which implements the Directive accordingly, those who become victimised by terrorist attacks that occurred outside the EU are excluded from victim-support services in Hungary.

For third country nationals, other forms of international protection (refugee status, subsidiary protection or non-refoulement protection) is offered, being more comprehensive and more durable forms of protection than victim protection or support. Yet international protection also comprises a number of support elements (medical care, assistance, legal aid etc.) that victims of crimes are provided with. This support is already provided during the asylum procedure. Undoubtedly, many of the beneficiaries of international protection and asylum seekers awaiting the decision related to their application for such status, are third country nationals who would qualify for victims support or be considered as victims of terrorism had the events that eventually made them flee occurred within the EU.

In Hungary, the 2015 'migration crises', topped with the recent terrorist events, lead to legislative, policy, and concrete law enforcement measures (criminalisation of crossing the border irregularly, transit zones, pushbacks at the border, criminal procedures against asylum seekers for acts in the border crossing points that are allegedly amount to terrorist activities) that simply deny access to international protection, regardless of the fact that potential beneficiaries of such protection may well flee from terrorist events that occurred outside the EU. In this context, the notion of 'victim of terrorism' is portrayed as if only EU nationals could be potential victims of terrorism and such events may only occur within the European Union.

2.4.3 France

Following the attacks of 13 November 2015 in Paris, a new interministerial instruction was issued on the 13th of April 2016, amending the one that had been in place in 2015.

In the immediate response phase, the role of CIAV is consolidated, but the emphasis is on the local coordination to respond to needs of victims, in particular through **ensuring a physical place where the families will be received** and which will be open in addition to the facilities of CIAV, which will continue to maintain the phone communication.

In the long-term, setting up a system, which would be run by a victim-support association is being planned. The principle is to gather at a single point all the support providers and make sure that they provide a **genuine focused and coordinated support to victims**. The support would be provided to every person expressing a need for support in relation to a terrorist attack. The support would be global and multidisciplinary – legal, administrative, practical, psychological etc.

Two major elements brought an evolution of approach to victims of terrorism, after the attacks on 13 November 2015:

- creation of a **State Secretariat for Victim Support** (*Secrétariat d'État à l'Aide aux Victimes, SEAV*) in February 2016. For the first time in France, a political structure aimed at supporting victims was set up under the authority of the Prime Minister to ensure governmental coordination in response to a crisis;
- two victims' associations were established, which were involved in the work of the State Secretary in developing policies, and in that way, it was genuinely possible to create policies which encompass views of those concerned – victims and victim support providers.

In addition, important steps forward were achieved in the practices of different professionals, as well as through legislative amendments.

In the area of **information**, SEAV developed an internet site which brings together all the information useful for victims and their families, practical instructions, contact details of different institutions, also providing them with an opportunity to introduce demands online.

Regarding **respect and recognition**, the decree of July the 12th of 2016 introduced a national medal of recognition for victims of terrorism. The medal is awarded in the name of the President of the Republic and is aimed to give homage of the Nation to victims of terrorist acts in the country or abroad as of 1 January 2006. This initiative was not unanimously received by the victims' associations.

Moreover, the **organisation of commemorations** of different terrorist acts has multiplied since 2016, and is systematically taking place in the presence of the Secretary of the State responsible for victim-support.

On September the 19th of 2016, the President of the Republic paid respect to all the victims of terrorism, on the occasion of the traditional national ceremony, which has been taking place since 1998. The importance of this ceremony, which took place at the Place des Invalides in Paris, was to show respect to all the victims of all terrorist attacks in France and all French victims of attacks abroad, since 1989. This symbol is very important: nobody is forgotten, unlike previous times when there were instances of certain victims feeling left out, forgotten and left to their own devices.

There are currently ongoing discussions between the national victims association and the public authorities, to introduce a **national remembrance day** for all victims of terrorism in France, following the example of the European day of victims, 11 March, as the date of the attacks in Madrid in 2004.

There is also an initiative to commission the creation of a global memorial dedicated to all the victims in France. It would be a place to remember, where the names of all the victims could be contained. The association of Nice victims is quite involved in the thinking about a memorial in Nice, which will soon be commissioned.

Regarding protection, the law of 3 June 2016 reinforces the combat against organised crime, terrorism and its financing, and improves the efficiency of the guarantees of the criminal procedure in terms of the **witness protection**, so that hearing can be held behind closed doors or without revealing their identity.

There has been a number of other initiatives: each department now has a **local committee for victim support**; each victim support association, part of the network France Victimes has introduced, in cooperation with the Ministry of Justice, a person designated for the issues of victims of terrorism; **compensation system** was improved to provide better and more immediate response to needs of victims; since 3 June 2016 legislation was put in place to ensure that victims' associations can become civil parties in criminal proceedings as soon as they are established (unlike previous request that they had to be in existence for at least 5 years prior to the request); provision of healthcare was improved as well as **psychosocial support**; awareness raising campaigns and trainings were organised etc.

Certain issues were identified as requiring further work, such as the issue of covering the legal fees in the proceedings before the FGTI, or ensuring that FGTI takes into consideration personal circumstances of victims and persons close to victims. At the psychological level, in particular following the attack in Nice in July 2016, it has been noted that there had been a lack of medico-psychological support for children and adolescents. 2017 was marked as the time when a centre of resources and resilience would be put into place to consolidate the state endeavour regarding psychological traumatising and to improve the psychological care for victims²⁷⁴.

On many of these and other issues, progress was made through the work of the State Secretariat for Victim Support (SEAV). Nonetheless, with the change in the French Government in May 2017, a decision was made to dismantle the SEAV and to be replaced with an interministerial delegate for victim support, a function which is set to answer to the Ministry of Justice, unlike the SEAV who was answered to the Prime Minister directly²⁷⁵.

2.4.4 Germany

Until recently, Germany has not had a state-sponsored system of compensation for the survivors of victims of homicide, and the perpetrator was liable to pay the compensation. The Act introducing the entitlement to survivors' benefits was adopted on 22 July 2017. Compensation payment is not designed to make up for the loss of dear ones, but rather to acknowledge the suffering of the survivors.

The survivor's particular proximity (*persönliches Näheverhältnis*) to the deceased is a condition for entitlement. This is assumed to be the case if the surviving person is a spouse, partner, parent or child of the deceased. The list of entitled persons is not exhaustive. Other persons who had a particular proximity with the deceased might be eligible, too. The particular proximity has to be declared and, where appropriate, proved. The amount of the

²⁷⁴ F. Rudetzki, member of the French Economic Council and Board member of the FGTI in her report to the President of the Republic and the Secretary of the State for Victim Support, 8 February 2017, available at: <http://www.gouvernement.fr/remise-du-rapport-de-francoise-rudetzki-pour-un-centre-de-ressources-et-de-resilience>

²⁷⁵ This latest measure has been criticised by the victim support organisations since.

compensation is not set by law and it is expected that the amount will be set by the court on a case-by-case basis.

Moreover, victims of offenses committed abroad do not receive full benefits under the Bundesversorgungsgesetz (BVG), in particular they do not receive pension benefits, but only limited benefits according to Section 3a of the Victims' Compensation Act, (*Opferentschädigungsgesetz*, OEG). This paragraph provides compensation for specific permanent consequential damages, for repatriation and funeral expenses in the form of single payments²⁷⁶.

2.4.5 Spain

The standards for victims of terrorism are all prior to November 2015, except the Regulation Law 4/2015, Royal Decree 1109/2015, of 11 December, which develops and regulates the Offices for Support to Victims of Crime. However, this piece of legislation was itself developed prior to the attacks in November 2015.

Also, there is no public debate on the adequacy of norms in relation to the needs of the victims. Associations of victims are regularly consulted in the creation of official policies, and media constantly find them relevant to participate in public debates.

Following the attacks in Paris and after the Kabul bombing in December 2015, the Popular Party has tabled in Parliament a non-legislative proposal to continue advocating within the United Nations for an international convention for the recognition and protection of victims of terrorism. This proposal has for its aim to ensure an international minimum standard of protection and rights for victims of terrorism, no matter where the attack takes place, and no matter who the victim is. This motion was repealed and reinforced on the 20th of December of 2016.

In April of 2016, the Ministry of Interior and the General Council of Spanish Psychologists presented the new National Network of Psychologists for the Care of Victims of Terrorism, which consists of 230 professionals who will serve in all provinces of Spain to provide assistance and support to victims of terrorism countrywide.

2.4.6 The United Kingdom

The Home Office has been working with policy leads across government, as well as the police and charities (including Victim Support), to coordinate planning and delivery of support to British victims, witnesses, and families bereaved by terrorism, either at home or overseas.

To support people who have been affected by the recent attacks in the UK, the Welsh Government set up the Wales Terrorist Attack Support Helpline which 'will provide a confidential listening, emotional support and signposting service. The helpline is for anyone in Wales whose lives have been impacted by terrorist attacks either in the UK or abroad'²⁷⁷.

Moreover, the UK Government established 'a cross-HMG Victims of Terrorism unit to coordinate support to UK citizens directly affected by terrorist events at home or overseas.

²⁷⁶ This improvement was still criticised by victim support providers in Germany, who still insist that German victims of crimes abroad should have the same rights as persons victimised in Germany.

²⁷⁷ Available at: <http://www.callhelpline.org.uk/>.

It is working across Government, the voluntary sector and with local authorities to ensure that support to victims of terrorism is comprehensive, coordinated and clearly communicated²⁷⁸. This was set up in 2017. The Government has 'also been working closely with local authorities to highlight the support available, and will make sure that payments from the We Love Manchester Emergency Fund and the UK Solidarity Fund do not affect benefits payments'.

Following the attacks in Manchester, Westminster and London Bridge, the Home Office set up dedicated webpages which detail the support available for people affected²⁷⁹.

²⁷⁸ UK Parliament, Written Questions and Answers and Written Statements, Victim Support Schemes: Terrorism: Written question - 2669, Question asked 4 July 2017, answered 12 July 2017, available at: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2017-07-04/2669>

²⁷⁹ For victims of Westminster, available at: <https://www.gov.uk/guidance/westminster-attack-march-2017-support-for-people-affected>; for victims at London Bridge, available at: <https://www.gov.uk/guidance/london-bridge-and-borough-market-attacks-june-2017-support-for-people-affected>; for victims in Manchester, available at: <https://www.gov.uk/guidance/manchester-attack-may-2017-support-for-people-affected>.

5. CONCLUSIONS AND RECOMMENDATIONS

Key findings

- The foundations of a quality victim-oriented response to terrorism lie in preparation and planning.
- All those coming into contact with victims should receive appropriate training and support should be adequately planned for and properly developed.
- Member States should implement the EU Directive on Victims' Rights and the EU Directive on Combating Terrorism as a foundation to meet victims' needs of support, information, access to justice, protection and compensation.
- All victims of terrorism should be treated with respect and dignity by individuals and within response mechanisms which requires training of individuals both to understand needs as well as to understand appropriate (and inappropriate) methods of communication and interaction.
- The starting point to ensuring that all victims are covered is through a sufficiently broad definition of victim of terrorism. Moreover, a qualitative and comprehensive registration of victims offers the stepping stone for quality support and follow up of victims. Governments should take measures to share information among services and institutions whilst respecting privacy.
- Victims of terrorism need accurate, reliable, relevant, timely, consistent and complete information in an easily accessible manner. They should receive information from a reliable source as soon as possible after the attack. In case information is yet unavailable, information about the process should be provided.
- Support for victims of terrorism should be comprehensive and cover the following needs 1) emotional and psychological; 2) practical; 3) advice on compensation; 4) vocational or educational; 5) access to justice, 6) medical. Victim/family assistance centres can form important mechanisms in ensuring they are synchronised and made available. Victim navigators and victim support organisation can assist victims in accessing needed support.
- Support for victims of terrorism should be made available for as long as needed and support for support-givers and those in contact with victims of terrorism should be available to avoid vicarious trauma.
- Peer support groups are important for victims of terrorism and the establishment and running of the groups should be assisted by Member States.
- Victims of terrorism need to be protected from secondary victimisation by the public institutions, private actors and the media and systems to access justice should be as accessible as possible reducing the need for legal assistance and representation.
- Governments should plan for and adapt large-scale trials to ensure that all victims wishing to participate are able to do so, no matter where they come from.
- Compensation serves the purpose of recognizing victims as well as offering them financial restitution. Compensation schemes should be run in a victim-oriented way, have simple and accessible procedures that lead to financial restitution that covers much of the direct harm caused.
- Cross-border victims have additional needs as well and need to be supported by the government to exercise their rights to information, support, compensation, protection and access to justice.

This study was prepared on the premise that the terrorist attacks which took place in several locations in Paris on 13 November 2015 created momentum for improvement of Member States' and the EU's policies regarding the needs of victims of terrorism. The Study aims to assess the adequacy of that response. Whilst a number of conclusions have been drawn from the research, it should be noted that the ongoing evolution in laws, policies, and indeed the understanding of victims' needs, made a full evaluation of the Member States' and the EU's response to terrorist threat complex. The Directive on Combatting Terrorism was just recently adopted and is still in the early stages of transposition by the Member States. The Victims' Rights Directive should have been transposed two years ago, but full compliance is yet to be evaluated. All the while, Member States continue to work on their victim support policies and counter-terrorist actions. As indicated before, at this stage of the development of legislation, it is difficult to say how adequately measures function in practice, given the short time period observed and the fact that it is difficult to estimate impacts of the legislation or policies so soon after their adoption.

This present chapter will present some of the key findings of this study building on the understanding of the needs of victims of terrorism and the response of Member States. **Following, the recommendations drawn from this study pertain to both legislation, policy as practice and aim to inform a victim-oriented response to terrorism.**

5.1. Planning and Preparation

The foundations of a quality victim-oriented response to terrorism lie in preparation and planning. The chaos that is brought through terrorism creates a strong need for strong pre-existing procedures, collaboration, and response-mechanisms. When developing victim focused response mechanisms for terrorism, it is helpful to consider actions necessary in the **immediate aftermath, as well as in the short, medium and long term**, since victim needs and situations develop over time. However, it is also essential to carry out a range of activities before any attack happens, within a planning phase. Without adequate preparations, immediate responses are usually too slow, uncoordinated and generally fail to meet the full needs of victims. For example, a number of actions after an attack require pre-prepared coordination plans and infrastructure to be in place.

Training

All those coming into contact with victims, as well as those developing laws and policies in the field, receive appropriate training to ensure they have a strong understanding of the impact of victimisation, victims' needs, and appropriate behaviours when working with victims.

In addition to training events and seminars, training programmes would ideally include manuals, guidance and other tools, which can be repeatedly used by professionals, widely disseminated, and support emergency training where a large-scale attack requires new individuals to assist in any response.

It is common for States to carry out regular large-scale training exercises which replicate a disaster or attack and which include first responders, law enforcement in order to ensure adequate counter-terrorism actions and emergency relief. However, such exercises rarely, if at all, focus on wider aspects of support in the immediate aftermath of an attack. They also rarely include victim support services in such exercises. This is an important gap in preparation that should be addressed. **Victim support services need to be pressure tested to ensure personnel is able to provide an effective service in an emergency.**

Training should educate professionals on legal requirements as well as improving soft skills such as appropriate communication. Training initiatives should also inherently

include elements for professionals to protect themselves and their colleagues against vicarious trauma. Care for the caregivers is essential to prepare and support those who support victims of terrorism to avoid vicarious trauma.

Importantly, training should not just be limited to support workers or first responders. Many other organisations and individuals such as **compensation authorities, politicians, insurance companies, local doctors, schools** etc. will come into contact with victims as part of their work. Such organisations must also have training and procedures in place to properly assist and refer victims and minimise the impact of the attack.

Awareness raising and training on needs, should encompass both the basic needs common to all individual victims, the needs of specific groups, and needs which may be different based on the personal characteristics and situation of a victim. Thus, it is important to understand specific needs of **victims with disabilities, cultural and religious needs, different needs of foreign victims** etc. Equally, a victim who has poor literacy will need to receive information in a different form. A victim who has suffered violence in the past may be more badly affected than others.

Collaboration of Services

To address the needs of victims of terrorism in a timely and comprehensive manner, States should support proper planning and collaboration between services involved in both the immediate response as well as long-term support of victims of terrorism. Key elements for achieving co-ordinated action include full mapping of all services that react after an attack and in the long term, determination of what activities each service is responsible for, establishment of coordination centres and plans at the national and local level etc.

Such mechanisms are in fact already required to coordinate counter-terrorism responses. However, these tend to insufficiently include victim service providers within coordination mechanisms. **Organisations which fully understand victims' needs and appropriate responses should be included both in planning mechanisms as well as in the coordination systems after an attack.**

Good collaboration during, immediately after an attack require **collaboration before anything happens (cold phase)**. Member States should facilitate organisations, emergency responders, law enforcement and all those who are involved in the response after a terrorist attack to meet each other as professionals, discuss procedures and response mechanisms on an ongoing basis.

Embassies and consular services are key partners in ensuring foreign victims' needs are met. **Collaboration between governmental agencies, ministries of foreign affairs, NGO's and consular services is imperative** to make this happen and thus needs to be prepared before an attack takes place. The high percentage of foreign victims in recent attacks point to the importance for all EU Member States to plan and implement an adequate response to victims of terrorism, as nearly all Member States have had their citizens affected by the attacks.

Information and Support Infrastructure

Detailed recommendations are provided below regarding information and support systems in the immediate aftermath of an attack. However, many of these mechanisms can and should be **prepared in advance**. This will enable the swift provision of information and support.

For example, it is recommended that after an attack, a range of means of providing information is established, such as a **helpline and website**. To avoid delays, **contracts should already be in place to run a call centre, training already provided, a phone number agreed, protocols established etc.**

Similarly, support for victims of terrorism should be planned for and developed with victim support organisations and victim experts in the framework of preparedness planning for any terrorist attack. Support for victims of terrorism should be available for both in the immediate aftermath as well as the long-term. Particular attention should be given to phases of transition from immediate to medium and from medium to long term. **Victims of terrorism need consistency and quality throughout their recovery process and careful planning and collaboration can facilitate that greatly.**

Victims/family assistance centres are a recommended approach to support relatives, victims and families in the immediate aftermath of an attack. These centres offer a **multidisciplinary coordinated response for direct victims and families affected by the terrorist attacks**. Appropriate locations should be identified in advance of an attack, agreements on who will be present in a centre, how the centre will be run and organised etc.

Member States need to acknowledge that terrorism often comes with a heavy burden of cultural differences and misunderstanding. **Working with disadvantaged communities and fighting radicalisation is important**. Governments should comprehend the ripple effect of terrorism on the wider community, which can lead to additional victimisation. Research has shown that different EU Member States have faced a substantial rise in hate crimes and revenge attacks in the wake of terrorism. It is vital that the potential for these acts are identified promptly and steps taken to prevent and protect.

Research

From the perspective of planning and preparation, this means **carrying out adequate research and data gathering to inform policy-making**. Whilst some States are developing research in the field and the European Union has supported some projects, the focus of funding tends to be on law and justice responses, as well as preventative action such as counter-radicalisation. The scarcity of studies on the impact of terrorism in countries affected by attacks has impeded qualitative evaluation of interventions, scientific analysis of the impact of terrorism and research-informed support initiatives.

The EU and Member States should both support existing initiatives as well as creating opportunities for new research. **Research and projects, including longitudinal studies, should be commissioned which can examine long-term consequences as well as the success of any interventions over time**. Funding priorities for such studies should be clearly identified both within general victim programmes as well as within Security programmes more generally since victim focused responses form an essential part of counter-terrorism and resilience strategies.

5.2. Understanding and responding to Victims' needs

There are varying degrees of acknowledgement of victims of terrorism across the Member States. However, Member States with a longer history and higher exposure to terrorist victimisation, such as Spain, UK or France, tend to have a **higher level of sensitivity to victims' needs, together with increased acknowledgement and recognition**.

Moreover, the extent to which victims are involved in any decisions on commemorating a particular attack, or victims of terrorism in general, is highly variable. Memorials are being erected without a systematic involvement with victims, and it is worrisome to note that sometimes they are not well kept and are left to deteriorate.

5.2.1. Respectful treatment of Victims

To better cater to the needs of victims stemming from terrorism, the following recommendations are proposed:

All victims of terrorism should be treated with respect and dignity by individuals and within response mechanisms. This requires **training of individuals both to understand needs as well as to understand appropriate (and inappropriate) methods of communication and interaction.**

Complementing such training, procedures and guidance should be in place to ensure that respectful treatment of victims remains at the core of any action – this may often be achieved through discussion and consultation with the victims. **Careful victim-oriented planning and response is required to achieve systemic changes.** Establishing codes or charters specifically related to victims can help to establish clear expectations about appropriate behaviours and relevant services, which authorities will adhere to.

The range of practices focused on respectful treatment are too wide to be laid out in this study. However, some examples include setting the date of meetings, interviews or a trial in consultation with the victims, and providing adequate notification of consultation and events. Similarly, victims should be involved in decisions that relate to law, policy, practice or commemoration of victims. By including victims in the decision-making processes, the likelihood of adequately responding to the needs of victims dramatically increases avoiding harmful responses and fostering positive perceptions of victims to the response.

5.2.2. Recognition of Victims

Two core aspects of recognition must be addressed. The first is the basic definition and status of a victim of terrorism. Secondly, there is the identification of all victims of a specific attack.

Defining Victims of Terrorism

To ensure that State responses to terrorism meet the needs of victims, laws and policies must target all those harmed by an attack. The more victims or victims' groups that are excluded from any response, the less adequate the response will be. However, it must also be recognised, based on the circles of impacts concept, that some victim groups will in general be more harmed by an attack than others.

Thus, a failure to meet the full needs of a victim present at the attack will, in almost all cases, be far more harmful than a lack of action for those harmed as a result of watching too much news coverage.

The starting point to ensuring that all victims are covered is through a sufficiently broad definition of a victim of terrorism. This means **establishing a definition which covers those harmed directly by the crime as well as those indirectly affected.** Equally, the definition must sufficiently cover the types of harm suffered by a victim – in other words **physical, psychological and financial harm.**

Both the EU and the Member States have already well identified the need to protect victims who suffer direct harm from the attack, regardless of whether they suffered physically, psychologically or economically.

Nevertheless, in practice, direct victims who do not have visible physical injuries such as those with hearing loss or impairment and those with brain trauma, are too easily overlooked. Psychological trauma is similarly easy to miss. Governments must ensure that those victims are adequately supported, in the first instance by putting in place the systems to recognise such victims. This includes training personnel, establishing protocols for regular assessments,

and carrying out awareness raising activities to better inform the public of symptoms and interventions.

For some injuries such as hearing loss and for psychological trauma, medical and psychological interventions now exist which can reduce harm if implemented soon after the injury or at other appropriate moments. However, knowledge of the wide range of interventions is not widespread and further research is required to demonstrate the effectiveness of all actions.

The definition of victims who were not present at the attack and did not suffer direct harm is more problematic. The Victims' Rights Directive guarantees the status of a victim for both direct victims and family members of victims who died as a consequence of an attack. The Directive also grants the right of support to family members of a victim, even if they are not defined as victims for the purposes of the Directive.

However, there is currently a gap in EU legislation on terrorism and victims, since it does not cover a number of victim groups. **The Victims Directive does not recognise witnesses, first responders or the broader community as potential victims of terrorist crimes.** Thus whilst some indirect victims are recognised, others are not. This gap is similarly reflected in Member States, though many do also address the needs of wider groups such as first responders, at least from the perspective of support.

This is arguably not surprising since the legal basis for action is judicial co-operation in criminal matters, with most rights focused on criminal proceedings. It is to be expected that a narrower definition of victim is used when determining rights in these proceedings.

The greatest gap in protection resulting from a limited definition of victim is with respect to support. Yet here, it must be recognised that requirements in the Directive on support outside of the context of criminal proceedings are already pushing the boundaries of the Article 82 TFEU legal base.

In addition to gaps in definition, in some Member States, the status of victim is conditional on them being a national or resident of the country of the crime. In Hungary, for example, the status of victim is reliant on legal residence status. In other words, if a victim's residence status has not been legalised – including asylum seekers whose claims are being processed through normal legal channels – they risk not having protection as a victim of crime committed in Hungary.

While Member States do have the discretionary right to regulate the right of stay for foreign citizens, **conditions on the recognition of victims based on their residence status or nationality risks going against the spirit and text of EU legislation.**

The EU Victims Directive clearly states in Article 1, that rights in the Directive must be available without discrimination of any kind, including with respect to the residence status of the victim. This is further explained in Recital 10: 'Member States should take the necessary measures to ensure that the rights set out in this Directive are not made conditional on the victim's residence status in their territory or on the victim's citizenship or nationality.'

In Member States, there is a varying degree of recognition of indirect victims. Some of them recognise the role of first responders and witnesses, and ensure a degree of protection for them. However, this protection does not appear to be sufficient and systematic. There is no systematic consideration of the victimisation of the broader community.

Alongside the definition of victim, it is essential that a victim-oriented response to terrorism is able to meet those needs common to all victims of an attack as well as being flexible enough to understand and respect the needs of each individual.

Identification of victims after an attack

To enable governments and support organisations to provide support both immediately after the attack as well as on the long term, **a qualitative and comprehensive registration of victims should take place.**

Developing a list of registered victims is a precursor for wide-scale targeted information provision, access to justice and tailored support. Open large-scale incidents entail considerable challenges in terms of registering all victims and people present at the time of the attack.

Nonetheless, planned coordination, on-the-scene collaboration and public campaigns afterwards should be implemented to ensure there is a list of registered victims that is as exhaustive and comprehensive as possible. In this respect, it is important to understand that a range of victims will choose not to come forward initially or will not recognise themselves as victims. **Actions to inform victims of normal and abnormal reactions to victimisation, to inform them of rights, services and benefits of coming forward should be taken, to help victims to reach service providers.**

When establishing a register system, a range of factors should be taken into consideration. Ideally, **a single entity will be made responsible for the overall collection and management of a victim list.** They should also lead work in determining what information on victims should be collected. Importantly such information should be useful for the wide range of actors coming into contact with victims, and not solely for one entity. For example, whilst emergency first aid services may not need future contact details of a victim, or not need to know about family away from the attack, this information is essential for follow up contacts by police, prosecution and support providers.

Once the information to be collected has been determined, key actors coming into contact with victims should be responsible for collecting the same information in the same way. The information should be provided to the lead organisation managing information. This will help avoid gaps or duplication in registrations.

As part of the information management process, **data protection and information sharing rules should be established.** This will ensure both that data is properly handled but also that organisations which need the information can obtain it. Failures in this regard have resulted in victims not being contacted or offered the services they need.

Longer-term recognition actions

Beyond the immediate definition of victims and their registering, a range of longer-term recognition needs should be met. Many of these are achieved by meeting other needs as described in subsequent sections. However, it is important to recognise that due to the nature of terrorism – an act aimed primarily at the State – many victims of terrorism feel it is important to be recognised by the State in a more specific manner.

To this end, **Member States should consider establishing a specific status of victim of terrorism.** This recognition can have a direct influence on the psychosocial well-being of victims. In addition, in some countries, this is found to be an effective means of offering specific and appropriate rights to such victims, in particular with respect to compensation.

An essential element in the long-term recognition for victims of terrorism are memorials and commemorations. These events help ensure that the victims are not forgotten and support resilience objectives by demonstrating to terrorists that victims and not terrorism are the focus of society's actions.

It is recommended that **States which have suffered terrorist attacks establish commemoration events for victims in close consultation with the victims.** These would ideally be on an annual basis at least initially. Consideration will also need to be given

to an appropriate approach if several attacks have taken place – to determine whether several memorials will be held or one single one. Any discussions about changes to memorials should be carried out in close co-ordination with victims.

A large number of best practice approaches have been established across the globe when setting up and holding commemoration services. States should incorporate such practices and the EU should support these efforts by collating and disseminating best practices. **The EU should also consider how to widen the relevance of the EU Day for the Remembrance of Victims of Terrorism (11 March), through additional activities including public events, social media campaigns etc.**

5.3. Support

Victims of terrorism have a wide range of support needs in the immediate aftermath of an attack and in the longer term. As already set out, these needs range from information requirements, to psychological and emotional support, through to medical, practical and legal assistance. In the longer term, this will extend into wider support to assist victims with long-term life goals covering education and career objectives.

EU legislation, in the form of the EU Victims Directive and the Combating terrorism directive already establishes both broad and specific obligations on States to provide generic and specialist victim support. Whilst the Victims Directive also sets out in some detail different aspects of support services, it does not impose specific obligations relevant to terrorism.

In the short term, the EU should nevertheless provide greater guidance and assistance on the structures and services that should be provided specifically for terrorism situations. In the longer-term, it should be assessed whether State responses are adequate and if not, whether more specific legislation is required to achieve change. This review could take place within the context of the reviews of both Directives on victims and terrorism.

Information

In all analysed Member States, victims have the right to receive primary information about their loved one's whereabouts, as well as further information about support, rights and compensation. Moreover, there are various hotlines in place on a permanent basis, primarily for all victims of crimes. Some States also have arrangement in places to establish special hotlines after a disaster or terrorist attack, as well as websites to inform victims and the general public about the developments and progress of action.

Nonetheless, it would appear that more work is required to establish fully streamlined information channels using both traditional and social media, ensuring that victims and members of the public have access to information.

The need (and the right) of victims of terrorism for information, prompt, accurate and consistent information is the cornerstone of any adequate support for victims, and as such needs to be ensured immediately after an attack, and for as long as it takes.

In advance of an attack, States should already prepare some content and methods of distribution. For example, these materials should contain information on the impact of a crime, normal and abnormal reactions, where to find help, specialist support providers, how to report yourself as a victim etc.

Information distribution should be organised for both members of the public and specifically for victims of the attack. This information provision should follow certain principles: Information should be accurate, reliable, relevant, timely, consistent and complete. It should be repeated and easily accessible offered through different sources

(public media, online, social media, radio, leaflets, posters etc.) and in different locations (in hospitals, public transport, airports etc.).

When communicating with victims of terrorism knowledge on the psychological impact should inform the way information is provided. **Victims should be provided information in a simple and accessible language and format.** Many victims of terrorism point to the overwhelming amount of information that comes their way during a time where their psychological state of mind does not allow them to take it in. Therefore, provided information can be left with the victim through a leaflet, or information brochure or available online to allow them to go back to it at a time when they are able to process the information.

Victims of terrorism need reliable information on what has happened. During the immediate aftermath, it is important to have one source of reliable information that stands strong in the storm of social media rumours and spread of information. After the MH17 plane crash, the governmental institutions and NGOs involved in the aftermath of the attack had the MH17 information portal at their disposal to spread accurate and trustworthy information. Before any news reached the press, all victims were contacted directly and through the website to ensure they disposed of accurate and checked information. **The State should develop a mechanism to provide relevant case information to victims and families before they hear it through the media.** To the extent that it is possible, victims should be informed in advance of press conferences and briefings so they can be prepared for media outreach or avoid reading or watching the media.

Governments are rightly concerned about providing incorrect or speculative information. However, these concerns too often result in victims not receiving any information. Unfortunately, refraining from providing information has a great potential to do additional harm to victims and their families. Information about the process should therefore be included in any communication strategy. This means that information which cannot yet be provided is discussed with victims, with an explanation of why this is the case and when they can expect additional information.

Clear communication with a high level of transparency and a management of expectations is the advisable route to support victims and avoid doing additional harm.

The process of informing relatives and families about the victimisation or death of their loved one should be carefully planned and trained. Victims should receive the information as soon as possible and be supported by professionals during and after. This process can be highly traumatising and lead to a substantial increase in psychological and psychiatric consequences.

Expertise of different EU Member States and other countries around the world unveil a number of powerful good practices in providing information to victims and their relatives.

- **A single website containing accurate, reliable, relevant, timely, consistent and complete information for victims.** This single website should be available within hours of the attack and offer information on what has happened, where to find support, the impact of this event on victims, etc. The single website should also offer information and a platform for sharing only for victims through a private section. Like the MH17 platform, this website should be the first medium to communicate information related to the event, before it is released publicly.
- **Information on a Victims' Assistance centre.** A multi-disciplinary centre where information of different services providers and sources are brought together to ensure accurate and consistent information. Ideally this information will be provided through a single contact or the single contact/ victim navigator will accompany a victim when receiving the information.

- **A single number national helpline** should be available in the immediate aftermath and for several days or weeks afterwards. Preferably, access to the helpline should be provided 24/7 in the first days after. Information should be provided by individuals that are trained and knowledgeable to answer questions of victims in a victim-centred manner. There should also be a built-in mechanism in the helpline that ensures that calls from victims or relatives are immediately identified, followed up and called back by professionals.

As the impact of terrorism goes well beyond individual victims and touches a whole society information **provision for the larger public is imperative to reduce the intended impact of terrorism**. As information is widely provided by formal and informal sources through a range of communication channels, governments should aim to disseminate information that is accurate and comes from reliable sources.

The public need for prompt information must not be at the cost of its accuracy. The national helpline should be able to provide the general public with information following the attack in a professional and supportive manner. Information can be spread through a range of channels like social media, flyers, dedicated websites or applications.

Governmental efforts can include in-depth analysis of information spread on social media to inform and draft targeted public statements and information provision. Media can be a vital tool in informing the public and preventing the psychological and social consequences of terrorism as well as the ripple effect of violence in the larger community. Analysis of concerns and questions present in the general public are helpful in developing targeted statements and communication. The Belgian crisis centre was internationally lauded for a similar methodology after the bombings on 22nd March 2017.

A targeted approach should be developed to reach out to children and young people. Children and young people need support in understanding what has happened and how it affects their lives and society. Informing children however requires understanding of the developmental impact of terrorism on children. The educational system has a primordial role to play in the spread of age-adequate information to children and youths and the prevention of fear, terror and anxiety. Children's television channels have shown to play an important role in providing children with adapted and trustworthy information.

Support Services

Member States normally have in place a framework for providing victim support; nonetheless, it would appear that access to this support is problematic in Hungary, where it appears to be conditioned with a formal certification.

However, more efforts are required to ensure effective collaboration and referral of victims, sufficient specialised training of support workers and the establishment of a one-stop style services which reduce the burden on victims.

In order to address the needs of victims for support, **Member States should have in place, or be able to set up quickly, free and specialised support for victims of terrorism whether through specific organisation or more generic support organisations.**

This support should entail a variety of support initiatives that help the victims deal with the overwhelming consequences of terrorism. **Support for victims of terrorism should cover the following needs 1) emotional and psychological; 2) practical; 3) advice on compensation; 4) vocational or educational; 5) access to justice; 6) medical.**

The underlying principle of the support for victims of terrorism should be that it focuses on the individual needs of each victim. Every victim is different and requires different forms and intensity of support to recover from the damages incurred by the attack.

This means that specific procedures and infrastructure should be in place to identify victims' needs on an ongoing basis. **Support workers first coming into contact with victims should carry out an 'intake' process** that includes some form of needs assessment informed by recognised vulnerability factors and knowledge on the impact of terrorism on individuals.

Ideally, and subject to data protection requirements, this information should be used to inform all agency responses. Importantly **regular checks or re-evaluations should take place to determine changing needs**. This should happen even where a victim initially does not want any support or no needs are identified – this takes into account the evolving situation of victims.

Within each country, and depending on how services are set up, different types of assessment may be necessary – for example for the purposes of support or for criminal justice proceedings. However, to the extent possible, the number of assessments should be minimised and streamlined to reduce secondary victimisation. Appropriate information sharing should facilitate support.

Needs assessment and service delivery should also take account of the fact that victims of terrorism often come from very different backgrounds and countries. This includes taking into account the specific situation of victims with previous mental health issues and the particular vulnerabilities of women and children victims of terrorism. **Governments and support providers should adapt their approach in order to reach and support victims of all ages as well as from all cultural, socio-economic, and religious background.**

Victims of terrorism should be offered support proactively and repeatedly. The psychological and social impact of a terrorist attack impedes the majority of victims to look for and find help, and sometimes even accept offered help. The wave of solidarity and myriad offers of support immediately after the attack often stands in stark contrast with the scarcity of support offered and provided weeks, months and years down the line. **An approach of watchful waiting and proactive follow-up is needed and advisable to reach as many victims as possible and avoid development of long-term psychological and physical consequences.** Sufficient funding must be provided to support this approach ensuring surge funding is available immediately after an attack to cope with the sudden increase in work, whilst funding in the long term must also reflect the increased workload of service providers.

As the EU Directive on Victims' Rights and the EU Directive on Combatting Terrorism clearly stipulate, specialised support is needed to ensure victims receive tailored, high quality support. **In order to ensure specialised support is available governments should promote the development of expertise and services.**

The support, lack of support or additional harm caused by secondary victimisation in the immediate aftermath, from minutes after the attack to days after the attack when victims are identified and the crisis measures are transformed in other forms of support, have a too often underestimated impact on the psychological, physical and social consequences of an attack.

Safeguards need to be put into place to ensure that victims are identified promptly and that their families are well looked after in the immediate period after an attack. The following mechanisms for delivering support have been identified as effective practices in meeting support needs:

1) Victims/family Assistance Centre

These centres bring together a range of service providers in a single location, offering to victims and family members a safe, private and easy means of getting the information and help they need. In the medium and long-term, Victims/family Assistance centres can offer

families and victims the opportunity to find information, support and advice in a coordinated way.

2) Victim navigators

A single contact that is available for a victim and his/her close social network to provide or navigate victims through different services. **Victim navigator can act as a 'buffer' for victims and their families in a time where support offered, media attention and queries put forward can be more than overwhelming.** Victim navigators have been a powerful tool in a victim-oriented response after terrorist attacks or disasters in France, England, the US and the Netherlands.

The EU Directive on Combating Terrorism requires that support of victims of terrorism should be provided for as long as it is needed. Building on this strong article in the Directive governments should develop sustainable and quality long-term support services for victims of terrorism.

An important challenge in this respect is ensuring there is a smooth and professional transition from crisis to long-term. States often focus on the immediate crisis but funding and support drastically reduces in the longer term. It is essential that this gap in service is addressed.

Action is required at the macro level and with respect to individual victims. This means that **nationwide planning must be in place to facilitate the transition between support after an attack and in the long term.** Depending on the approach taken, this may mean that the same provider offers support for the full period from crisis onwards. Alternatively, a different support organisation may be used in the long term.

In this instance, arrangements should be in place for the transfer of victim data, for a victim sensitive change in case workers, and for the provision of funding at the appropriate time. Equally, contacts established with other agencies should be passed to new support workers. Importantly, victims should be informed as soon as possible about the different service providers. Given the importance of trust in establishing effective relations, transparency in the process is critical.

To ensure quality short and long-term support for victims of terrorism it is imperative to include support for supporters in the planning. **All professionals and volunteers who have significant levels of contact with victims of a terrorist attack should be supported by professionals and protected from vicarious trauma.** The emotional strain and risk of developing trauma symptoms when supporting victims of terrorism are considerably high and should be avoided at all costs.

Victims of terrorism need to have a variety of support available.

- Victims of terrorism suffer **a wide range of financial costs.** Access to financial support needs to be immediate, comprehensive and unconditional. Longer-term assistance to cope with financial costs should also be provided whether through service provision or financial payments. The financial impact on indirect victims should also be taken into account. In particular, individuals and businesses which have lost income due to an attack – for example those in the tourist industry. Drops in income can have a devastating impact on some business leading to closures. States should include financial assistance planning for such situations.
- **Practical support** needs to be provided immediately and in the long term, and needs to be adapted to victims' needs. In particular, support with housing and adapting with the changed life circumstances, which some forms of victimisation bring (in particular disability), need to be addressed.
- **Vocational support** for both the victim and their employer is crucial for full recovery. This may mean helping a victim to return to their workplace, helping a victim to adapt

to injuries to continue working in the same job or to change jobs whether at the same employer or at a new employer. It may entail helping a victim to find a new career path even for those not suffering physical injuries but whose experience drives them to seek a more fulfilling career.

- **Educational support** for young victims may be needed to help them continue with their education and to be successful – particularly those with long-term physical injuries and psychological trauma. This can include for example disability aides, additional time or support to complete assignments or tests.

Equally, **educators require training and assistance to understand the needs of young victims**, to identify problems and to put in place appropriate support systems. Schools should be supported to identify and put in place good practices in developing school community responses – to engage all those in school. This is particularly important where several students may have been killed or injured.

Additional support should be provided to indirect victims – such as children in schools during a lockdown, schools in the vicinity of an attack etc. Research shows the relative risk of developing emotional problems in children and young people in the general population, which points to the need of prevention and support in schools.

- **Parental support** should be available to inform parents about problems that their children may experience whether directly or indirectly affected by a terrorist attack. Information about the emotional impact of trauma in children and youths as well as tips on reactions is the first step to strengthen parenting in the aftermath of terrorism.
- Victims of terrorism should get **support with administration and paperwork** after the attacks (e.g. related to insurances, governmental administration etc.). First and foremost, governments should strive to make the administrative burden on victims as light as possible.
- A relatively large proportion of victims of terrorism develop psychiatric disorders. **Specialised trauma support** should be easily available across the country.
- **Victim navigators** are a highly recommended approach to providing support to victims on different aspects both immediately and on the long term. They navigate victims through different services, support-finding answers to their questions while empowering them throughout the process.
- **Peer support groups** play an important role in the recovery process for victims of terrorism. Governments need to encourage, support and provide funding for the functioning of peer support groups and make sure that enough resources are allocated to provide access to peer support to all victims who want to avail themselves of these services.

5.4. Protection

The Victim Rights Directive is quite elaborate regarding the protection of victims during the criminal proceedings, and Member States are transposing these provisions into their domestic legal systems.

In all Member States observed by this study, there are specific precautions in place regarding witness protection, and protection of victims as witnesses in the criminal proceedings. Victims enjoy a number of protection measures during trial, and in some cases also afterwards (e.g. to be informed about the release of the perpetrator from the prison).

Victims' data is also protected in accordance with the European and Member States' data protection measures.

When it comes to protection from secondary victimisation in other spheres of life, there are growing initiatives that aim to sensitise service providers, as well as broader stakeholders, about the vulnerabilities of victims of terrorism. Yet, numerous examples from victims themselves demonstrate that a lot of work is required to sufficiently minimise secondary victimisation.

In order to provide better protection for victims of terrorism, **Member States should first fully implement the EU Directive on Victims' Rights and the EU Directive on Combating Terrorism**. Member States should in addition implement assessments of victims of terrorist attacks to identify the vulnerabilities and potential physical protection and support measures they need both related to and outside of the criminal proceedings.

Furthermore, governments should ensure that **guidance is available to those victims who may become public leaders** – victims who are public leaders in the fight against terrorism understand potential risks, and know what protection and support is available.

Whilst physical protection of victims is essential, **protection from secondary victimisation** is equally important. Thus, victims of terrorism need to be protected from secondary victimisation by the public institutions, private actors and the media. The need to protect victims from this type of repeated victimisation in all spheres of life needs to be acknowledged and ensured. To avoid secondary victimisation, all who are in contact with victims should be trained in respectful, victim-oriented treatment.

One important aspect of secondary victimisation is the high administrative burden victims of terrorism face in their contacts with e.g. governmental services, support services, insurance schemes, and compensation authorities. Protection against this kind of victimisation is having the procedures in place so that you do not repeatedly ask for the same information so that the language used is not going to be harmful. Secondary victimisation by private insurance companies can be very harmful for victims. **Businesses and organisations dealing with victims of terrorism should ensure their staff does not do any further harm and upholds principles of respectful treatment and communication.**

Media have a particular responsibility to protect victims at the time of the attack, but also in the long-term. **Whilst taking into account the fundamental importance of a free media and freedom of speech, governments should explore the introduction of agreements, guidelines or legislation to limit secondary victimisation from media.** The media themselves should act responsibly when reporting on attacks. The media and government should, alternatively or in addition to legislation, establish codes of practice, self-regulation and ethics codes.

Training should be provided and attended to better understand the impact of questioning and reporting on victims, and how this might be achieved in a victim sensitive way. This could be supported by State and civil society actors.

5.5. Access to justice

Member States all guarantee access to justice for all and are bound by EU and international human rights instruments to that effect. At the same time, in part based on the EU Victims Directive, a range of measures are in place to support participation in criminal proceedings, and thus support victims' access to justice.

In all six Member States examined in this study, victims can take part to varying levels in the criminal proceedings against the perpetrators– often dependant on their status – as a victim, witness or party to proceedings. For example, victims have the right to appeal decisions of prosecutors not to pursue the prosecution, as well as against some unsatisfactory judgments. Sometimes this will depend on their formal participation in proceedings.

Similarly, legal aid is generally granted to victims, but in some systems, it may be conditioned by a means test. States all have remuneration systems for the cost of participation in hearings, though what costs are covered and the extent of coverage is highly variable. In addition, sometimes reimbursement may be conditional on being summoned to attend the hearing. In some countries, there is no separate guarantee for the reimbursement of lost income.

At the same time, a number of Member States also provide a more specific role to victims in the proceedings, depending on their status as a victim and the type of proceedings they take part in. Where victims have the status of a party to proceedings, this furnishes them with a range of additional participatory rights such as the right to demand certain evidence is collected or to question suspects.

As a foundation of access to justice, Member States should ensure that they have fully implemented the EU Victims' Rights Directive and the Directive on Combating Terrorism.

Systems to access justice and other rights should be as accessible as possible reducing the need for legal assistance and representation. It is clear that in some countries legal representation is essential given the role the victim has within criminal proceedings. Member States who assign victims such a role in criminal proceedings should make legal representation free. Equally, any other necessary costs that victims incur for participation in criminal proceedings should be reimbursed as a general principle.

Proceedings should be concluded with the shortest delay and victims should, in line with the EU Victims' Rights Directive, have the right to a review of a decision to not prosecute.

Criminal proceedings related to large scale terrorist attacks often involve a large number of witnesses and victims. **Governments should plan for and adapt large-scale trials to ensure that all victims wishing to participate are able to do so.** Innovative approaches may be required such as using alternative buildings to hold trials or hearings. IT technologies such as video conferencing could facilitate participation not only of those in country but also victims abroad.

If concerns are raised that participation of all victims may delay proceedings in contravention of human rights, mechanisms should be established to enable victims to have a voice whilst limiting such delays, for example by encouraging agreement on victim representatives.

As clearly stipulated in the EU Victims' Rights Directive, victims need to be kept informed about progress during the criminal proceedings. **The complexity of informing a large number of victims in a sensitive manner should inspire new methodologies** instead of refraining from providing information in the first place. In particular, the use of online case management systems or private online reporting has been shown to be effective in the UK and US. Appointing counsel or victim representatives could also support such an approach. For example, for the Breivik trial in Norway, 166 counsels for the aggrieved were appointed together with three coordinating counsel for the aggrieved who represented the victims in court.

As the study points out in many cases there may not be a trial, thus the victims and others are often left without answers, why it happened, how it might have been prevented, the emergency and support response and lessons learnt. Whether a trial takes place or not, **active consideration should be given to the appointment of a public enquiry aimed at establishing these facts.**

An example of this was the campaign for a public enquiry by the survivors of the 7/7 bombings. It is important for survivors and families of the deceased that answers should be available as promptly as possible after a terrorist attack and a trial, if there is one, often does not answer all their questions. It should also be noted that these public enquiries are costly

and may influence negatively on some victims who need to contribute. Similarly, Belgium held a parliamentary inquiry after the Brussels attacks which has led to a number of recommendations for improvements.

5.6. Compensation

Compensation to victims of terrorism can serve a dual purpose. Firstly, compensation can offer recognition for the harm caused by the terrorist attack. Victims of terrorist attacks are victimised as a symbol of the state and society. Their need to be recognised as victims of terrorism can be partially addressed through a compensation scheme that addresses their financial needs. Secondly, compensation acts as financial restitution for the harm done by the attack and its direct effects. Terrorist attacks can have a wide variety of financial consequences on victims. Compensation of costs directly related to the victimisation can help in ensuring victims are able to deal with costs like e.g. funeral costs, medical bills, practical costs related to forced change of housing, loss of income.

Generally, all Member States analysed have in place a system of compensation. However, some systems are perceived as more adequate by victims than others. Systems with relatively high maximum lump-sums, like in Belgium and France, appear to be relatively generous. This does not imply that they are perceived to be in practice by victims. The German system, in which a victim receives a life-time pension is perceived as a more adequate and sustainable approach to ensuring the long-term support of victims of terrorism. In order to meet victims' needs to compensation, the first step is that Member States should implement the EU Directive on Compensation. Nonetheless, this Directive leaves the procedures, amounts and criteria of compensation schemes at the discretion of Member States. This means that the financial compensation procedures and amounts a victim might get depend completely on the country they fall victim to.

In order to ensure state compensation reaches its aim to both recognise victims and offer financial restitution the following principles are important.

A number of core principles should be applied to ensure compensation schemes are set up and run in the most victim-oriented way possible. Staff needs to communicate about the compensation scheme's purpose and communicate in a way that shows recognition to victims. **To ensure a non-discriminatory approach to victims of terrorism compensation schemes should be made accessible for all victims, regardless of their residence status.** Acknowledgement of victims goes hand in hand with a victim-oriented and sensitive approach. The staff's approach, attitude and skills make victims feel more supported and recognised. In cases where state compensation staff are properly trained they can form an important factor in the recovery process and become as important as the payments itself.

Member States should aim to have **transparent, simple and accessible procedures in place that avoid secondary victimisation** of already vulnerable victims. Procedures should facilitate victims to apply and receive compensation in a timely and appropriate manner. Complex procedures to apply for and receive financial compensation as a victim of terrorism are currently an important cause of secondary victimisation. Some countries' complex procedures cause the perception of discouraging victims to apply or receive compensation. Therefore, administrative difficulties, in particular with respect to the speed of decisions and the complexity of the application procedure should be reduced. Countries like France and to some extent Belgium have made important changes to introduce more flexibility and transparency in the procedures relative to claiming compensation after a terrorist attack.

The amounts and timing of payments are incredibly important for victims of terrorist attacks. Often victims face a range of high financial costs directly and indirectly related to the harm

caused by the attack. These costs can be particularly high due to the increased risk of severe physical and psychological injuries. Most compensation systems in this study have a system where victims are able to apply for emergency compensation through a rather flexible procedure in a very relatively short time period. After the Nice attacks, France has made substantial changes to the ways their national compensation system pays out emergency compensation within weeks to those present in the close vicinity of the attack.

5.7. Cross border victims

When catering for cross-border victims it is important to differentiate between victims of a country who are harmed abroad, and foreign victims harmed in the country where an attack takes place.

Opportunities exist to better involve victims and victim led groups in the decisions that concern them, such as legislation, policy or memorials. In this respect, **foreign victims tend to be more disadvantaged and forgotten**. Specific measures to facilitate involvement of foreign victims should also be implemented, for example through free interpretation and translation facilities, use of online and video facilities for communications, adequate notice of events to give victims abroad sufficient time to attend events.

Not all countries have measures in place for the former type of victims. For example, in Hungary rights and services are only provided for victims of crimes committed in Hungary. Given the minimal experience the country has had with victimisation abroad, it is difficult to tell if in practice support would be available to those victims.

Overall, it is clear that whilst laws may generally apply equally to at least EU nationals, in practice, foreign victims continue to face more barriers to accessing their rights. This includes their involvement and participation in commemoration services and similar ceremonies.

Cross-border victims face the full range of problems of national victims of terrorism but also face an added layer of complexity. The added difficulties can range from e.g. having extra costs for accommodation and flights, not knowing the justice system in the country where the attack occurred or not having a social network there to support them. In order to ensure that cross-border victims can also exercise their right to support, information, protection, access to justice and compensation special measures and safeguards should be put in place.

Overall, key issues relate to language difficulties, the length of time provided to respond to requests, meet deadlines, attend events, the costs and practical difficulties in participating in actions and enforcing rights, the lack of understanding of the legal, procedural and cultural environment, and the isolation felt when returning to a country that has not experienced an attack.

These problems can be addressed for example by **establishing procedural rules to account for the specific needs for preparations by cross border victims**. Hearings should be scheduled with enough advance warning, time limits should be adapted to the needs for translation and cross-border legal advice, video-linking to hearings should be considered and presented as an option. Cross-border victims of terrorism need to be considered in any initiatives for memorials and commemoration and affirmative action taken to ensure their attendance whenever possible. Cross-border victims also have the right to quality long-term support. Support systems need to be set up in a way to ensure that cross-border victims are continuously and systematically accounted for and provided with support in their country while staying in touch with support providers in the country where the attack took place.

Information provision initiatives should be tailored to reach foreign victims. Considering they often leave the country as soon as possible information on support, psycho-

education and compensation should be ready and available for foreign victims immediately after an attack. To make sure these victims do not get isolated after the attack comprehensive and rigorous recording of victims immediately after the attack is required to reach cross-border victims afterwards.

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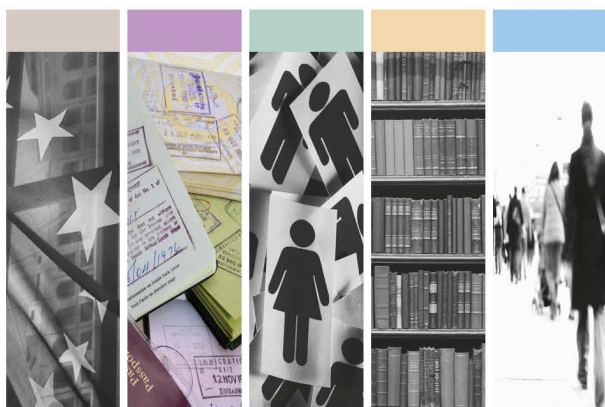
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