



HANDBOOK

ON VICTIMS OF TERRORISM

LUXEMBOURG

The EU Centre of Expertise for Victims of Terrorism (EUCVT) is set up and run by the European Commission. The tasks of the EU Centre are executed by a consortium led by Victim Support Europe and include ARQ National Psychotrauma Centre, Association française des Victimes du Terrorisme and Fondation Lenal.

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INTRODUCTION

Recently, the threat of terrorism has hung over the European Union and the rest of the world. The occurrence, on an almost regular basis, of terrorist attacks – whether by suicide bomber or other means – has shaken society to the core, especially as EU citizens are often caught up in such events outside their home borders as well as within EU borders. The impact of terrorism on individuals can be terrible whilst the recovery of victims of terrorist attacks can be affected by the way in which governments, organisations, and individuals respond to the immediate attack and by how victims are supported afterwards.

The Victims' Rights Directive, together with provisions in the Counter-Terrorism Directive (Title V) and the Directive on Compensation, provide a general framework of rights for victims of terrorism. The Counter-Terrorism Directive goes beyond the Victims' Rights Directive to

establish services supporting the specific needs of victims of terrorism. EU Member States are bound by these instruments, have the obligation to transpose them into national legislation and to ensure that they are correctly applied in practice. In doing so, each Member State must evaluate how to implement these provisions to ensure measures are appropriate to the specific situation and to national circumstances.

The number of terrorism-related incidences, which have occurred in Luxembourg, is relatively low and only 16 separate terrorism-related occurrences have been recorded over the years. A series of bomb attacks occurred between 1983 and 1994, peaking in 1985 with ten terrorist attacks. However, as there was no specific legislation on terrorism in place at that time, these attacks are recorded as bomb attacks and not terrorist attacks.

Further reading:

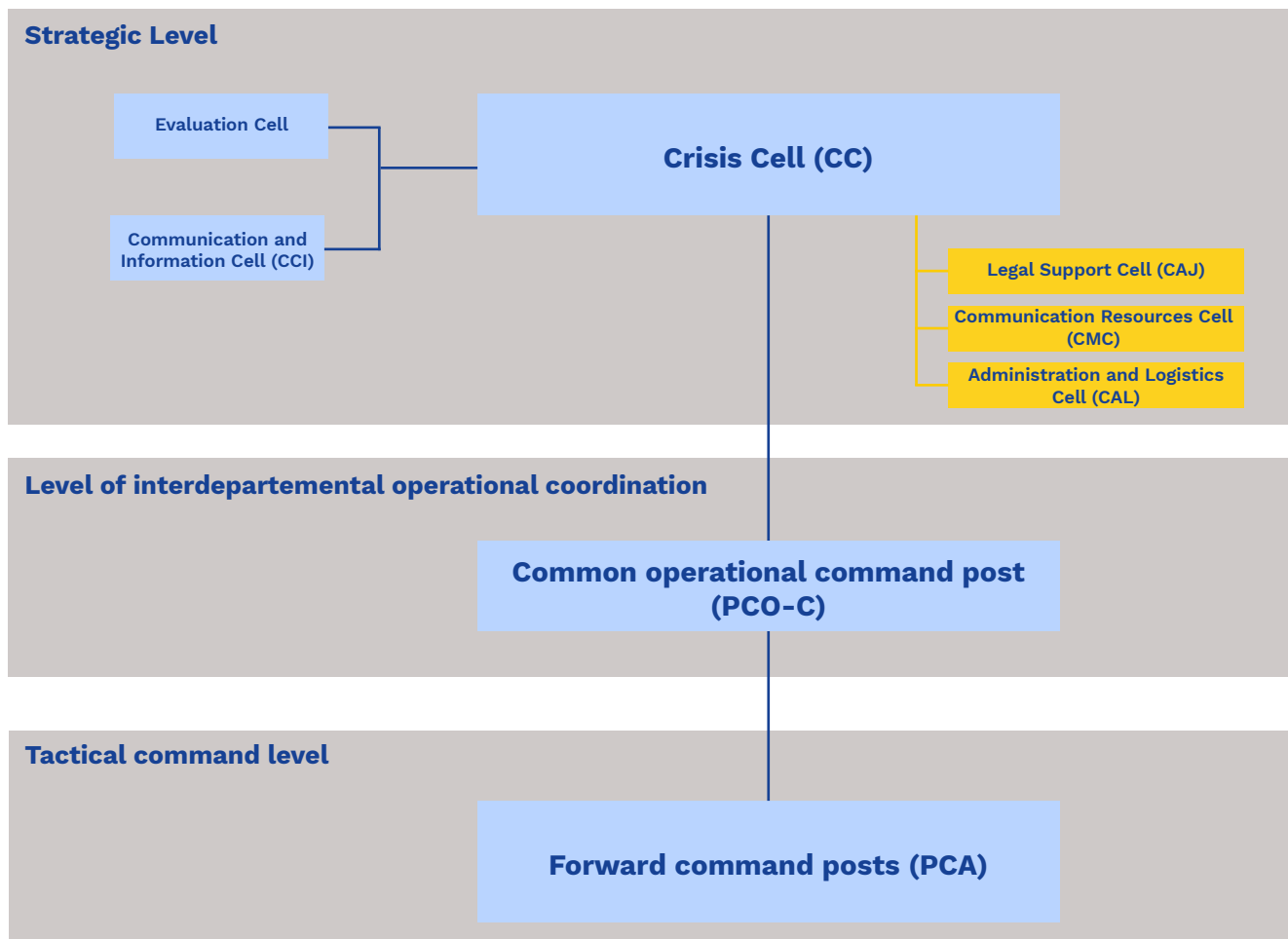


- **On rights:**
 - Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, *OJ L 315, 14.11.2012, p. 57–73*, hereafter referred to as Victims' Rights Directive
 - Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA, *OJ L 88, 31.3.2017, p. 6–21*, hereafter referred to as Counter-terrorism directive
 - Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, *OJ L 261, 6.8.2004, p. 15–18*, hereafter referred to as Directive on compensation to crime victims
- **On needs:**
 - Ivanković, A., Altan, L., Verelst, A. (2017) How can the EU and Member States better help victims of terrorism?
- **On psychosocial support:**
 - Vicente Colomina, Aída de (2019) Victims of Terrorism Quality Assistance Guide
- **On legal support:**
 - Victim Support Europe, APAV (2019) VOCIARE Synthesis Report
- **On organisations of victims of terrorism:**
 - RAN (2017) The power of victims of terrorism: how to give support
- **On the recognition of victims and useful figures:**
 - MEP Maité Pagazaurtundúa (2019) le livre blanc et noir du terrorisme en Europe

CRISIS RESPONSE STRUCTURE IN LUXEMBOURG

In the case of a national crisis, inter-agency cooperation is managed by the High-Commission for National Protection (HCPN). A crisis is any event “which harms the vital interests or the essential needs for all or part of the country or for the population, which requires urgent decisions and which necessitates a coordination at the national level of the actions of the Government and the public administrations, services and departments”. In such an event, a crisis cell, composed of all relevant stakeholders, is activated and chaired by a member of the government.

The strategic and political command level of the crisis cell is in charge during major crises. Thus the State’s general strategic response is set by this group, while the inter-ministerial group ensures the operational coordination and control of the tactical entities on the ground, which aim to achieve the command level’s strategic objectives. Simultaneously, the tactical command directs and supervises all field operations, centralises and exploits the information received from tactical entities, and requests and distributes all necessary reinforcements.



Crises are managed at the national level on the basis of emergency response plans (ERP), which are established for all major risks, and are part of the crisis anticipation and management measures developed by the HCPN together with relevant public and private entities. The emergency plans are regularly reviewed and updated. A summary of all government emergency response plans together with full information from national authorities in connection with emergencies are available online via the portal www.infocrise.lu.

Two emergency plans are currently applicable in the event of a terrorist attack:

- the government plan for national vigilance in the face of threats of terrorist acts, known as “VIGILNAT”, approved by the Government Council on March 27, 2015, updated on August 20, 2020;
- the “many victims” plan, approved by the Government Council on June 27, 2018.

The “VIGILNAT” plan defines the Government’s action in the event of threats of terrorist activities. The plan establishes the management and coordination bodies; vigilance, prevention and protection measures as well as all related procedures; and sets in place the dissemination of alerts and information, from the authorities to the public. The “many victims” plan defines measures to be taken nationally, in the event of incidents causing multiple victims in the territory of the Grand Duchy of Luxembourg.

The Minister of Home Affairs is in charge of the organisation, coordination, and implementation

of civil security, which intends to provide protection for people, animals, property and the environment in the event of calamitous incidents and disasters. Civil security measures include the provision of information to, and alerting, the population in addition to the preparation and implementation of existing plans and appropriate actions. Civil security is carried out by the CGDIS - *Corps grand-ducal d’incendie et de secours* (Grand Duchy’s Department for Fires and Security)

The CGDIS ensures the response to disasters and has concrete objectives in terms of prevention. The Operational Strategy Directorate (OSD) of the CGDIS is responsible for emergency planning and develops the national plan on rescue organisation (PNOS), the preparation of specific emergency plans for specific risks or threats (in coordination with the HCPN), and the definition of the CGDIS’ operational processes.

Each Ministry develops and adopts its own risk assessments and sector specific strategies and actions. They also communicate these risks to their stakeholders, and to the HCPN if the risk is likely to have a national impact. The Ministry of Home Affairs, along with the CGDIS, develops the national plan on rescue organisation (PNOS), which includes a risk analysis of technological and natural risks, and subsequent preparedness objectives in the field of civil security. The HCPN conducts a national risk analysis; currently Luxembourg has identified 7 major risk areas (cybernetics, terrorist, health, nuclear, risk of disruption to energy and water supplies, and floods).

Further reading:



- [Overview of the National Disaster Management System in Luxembourg](#)

TERRORIST ATTACKS

Terrorism evolves constantly as perpetrators, methods and targets are changing. The characteristics of an attack will influence the scale of the response and the impact of the attack on its victims and associated local, regional, national or international communities.

Key characteristics

Influential key characteristics include:

- scale (a single victim or large numbers of victims)
- location (open or closed environment; one or more points of attack)
- timing (within hours or on consecutive days, during the day/night/rush hour)
- weapons used
- target groups
- degree to which the terrorists are organised

Regardless of the attack characteristics, thorough preparation is required to ensure the crisis is managed in line with the EU rules on victims' rights.

Scale

The scale of the attack (the number of those killed or wounded) varies from event to event. In the Halle attack in 2019, 2 people were killed and 2 people were seriously injured. These figures only consider deaths and injured. Those affected will be much larger. The greater the number of victims, the more resources are required during both the emergency response phase (e.g. hospital beds) and in the longer term (e.g. in criminal proceedings, professional mental health services, information and support providers). The larger an attack, the greater the media attention will be on the victims, their families and society.

In the recent past, attacks have tended to concentrate on a single localised area. However, during the Paris attacks in November 2015, six separate attacks took place in different locations within a short period of time. The multiple sites, in both enclosed and open venues, and numbers of victims created a chaotic environment: identification of victims and securing individual locations required complex management of the various services involved.

Timing

In the case of multiple, related, terrorist attacks, the timing of any consecutive attack(s) has usually been within hours of the first, for instance in 2016 the two attacks in Brussels occurred with just over an hour in between. Yet, the attacks in Barcelona, on 17 August 2017, were followed by an attack in Cambrils, about 100 kilometres to the south, the next day. In Asia and the Middle East, follow-up attacks have been timed to hit first responders and helpers.

Weapons

Bombs are not the only weapon used by terrorists: trucks are driven through crowds; airplanes are taken down by missiles; suicide vests, knives, firearms, chemical, biological, radiological or nuclear (CBRN) agents etc. are used. Each weapon impacts its victims differently and will require a different response: for example, the truck attack in Nice initiated a new approach in defining victims eligible for compensation and the French government delineated zones around the attack location to help establish victim lists.

Target groups and organisation

Various ideologies motivate terrorists to carry out attacks: e.g. antisemitism (Halle, Germany in 2019), jihadism (London, UK in 2019), right-wing extremism (Hanau, Germany in 2020), etc. Europol's annual Terrorism Situation and Trend (TE-SAT) Report lists jihadist, ethno-nationalist and separatist, left-wing and anarchist, right-wing and single-issue terrorist groups, in addition to a new grouping of attacks committed by informal organisations or lone wolves.

Cyberterrorism

The internet can be used for terrorist purposes too: by threatening individuals, organisations or governments with violence that may result in bodily harm or loss of life, or by large-scale disruption of computer networks. These forms of terrorism are not explicitly addressed in this handbook. However, preparation for such attacks, and support of their victims, are similar to 'offline' terrorist attacks.

Further reading:



- Europol (2020) TE-SAT Report
- Institute for Economics and Peace (2019) Global terrorism index

VICTIMS' NEEDS

As specified in Recital 27¹ of the Counter-terrorism Directive, Member States should adopt measures of protection, support and assistance in responding to the specific needs of victims of terrorism, in accordance with the Victims' Rights Directive and as specified by the Counter-terrorism Directive.

Recital 16 of the Victims' Rights Directive specifically addresses the needs of victims of terrorism, who have suffered injuries – whether physical or psychological – from attacks that were intended to harm society. They may need special consideration, support and protection due to the nature of the crime committed against them. Member States should pay attention to the needs of victims of terrorism, and should seek to protect their dignity and security.



Layers of needs

To understand the needs of victims of terrorism, it is important to comprehend that there are different layers of needs. The first layer consists of the needs of all victims of crime. The second layer consists of specific needs due to the nature of the terrorist attack. The third layer of needs depend on personal and environmental factors of the individual victim.

Emergency support to meet victims' needs immediately following a terrorist attack is critically important: survivors need to be safe and secure, receive emergency medical – and psychological – aid, food and drink. Member States shall ensure that support services addressing the specific needs of victims are in place and easily accessible immediately after a terrorist attack, and for as long as necessary.

¹ Under EU law, Recitals provide background information and reasoning for the inclusion of particular Articles in legislative acts.

Non-urgent needs of all victims of crime are divided into five major categories:



Needs of victims of terrorism

Once emergency care has been given to victims of terrorism, their specific needs, as related to the above five categories, can be evaluated. These needs may differ from, or be more intense compared to, victims of other intentional crimes:

1. Recognition and respect: as victim of terrorism.
2. Support: medical care, specialised psychological-trauma care, information, practical assistance, legal assistance, communication (media) support, peer support, etc. In Luxembourg, all victims of crime, including terrorism, receive support that is free of charge. The victim has the right to be assisted by several victim support services. In the event of an attack happening in Luxembourg, first support will be provided by the “Groupe de support psychologique”. General and long term assistance for all the victims is provided by the state, through the central assistance service of the General Prosecutor’s Office (“Service d’Aide aux Victimes” SAV), which will the victim and offer free social, psychological and psychotherapeutic support and legal assistance.
3. Protection: physical protection, protection from secondary victimisation. In Luxembourg, the victim benefits from an individual assessment by the Victim Support Service to verify the need for any specific protection measures, to ensure the victim’s protection needs and prevent secondary victimisation. It is not the police officers who undertake an individual assessment, but the psychologists of the Victim Support Service. During the investigation and trial, a series of measures

are in place to avoid contact between victims and offenders, and to ensure that the victim’s right to privacy is observed (mainly through the confidentiality of proceedings).

4. Access to justice: safe participation in the criminal justice process. In Luxembourg, all victims of crime can be heard as a civil party or as a witness in different phases of Luxembourg criminal proceedings. In these roles, victims can provide evidence, request witnesses etc.
5. Compensation and restoration: financial compensation and help with the financial impact of a terrorist attack. Restoration includes overall recovery and restorative justice processes. In Luxembourg, there is no specific compensation scheme in place for victims of terrorism. Financial assistance will be provided, based on the legislation applicable to victims’ compensation (any victim of a violent offence, having suffered physical injury in Luxembourg or abroad, as a result of deliberate acts which constitute a criminal offence, can apply for compensation from the State, if they cannot claim compensation from an offender, because the offender has not been identified or found or is insolvent).

Individual needs

Individual victim’s needs will depend on personal characteristics (previous victimisation or stressful life events); (mental) health; social network; socio-economic situation; cross border situation; and daily stressors. These needs will evolve over time, therefore, responding to the needs of victims of terrorism requires an individualised victim-centred approach.

Further reading:



- Dolci, L. (2018) A Victimless Crime? A Narrative on Victims of Terrorism to build a case for support
- INVICTM (2018) Symposium Report: Supporting Victims of Terrorism
- RAN (2018) Enhancing the resilience of victims after terrorist attacks

1. THE RIGHTS OF VICTIMS OF TERRORISM

1.1 VICTIM OF TERRORISM – DEFINITION UNDER NATIONAL LAW AND IMPACT

DEFINITION UNDER EU LAW Victim of Terrorism

Under the Counter-terrorism Directive, a victim of terrorism is defined as follows, in line with the definition offered by the Victims' Rights Directive:

- a natural person who has suffered harm, including physical, mental or emotional harm or economic loss, insofar as that was *directly* caused by a terrorist offence, or
- a family member of a person whose death was *directly* caused by a terrorist offence **and** who has *suffered harm as a result* of that person's death.

Note: the use of the word 'victim' is not always appreciated by those who survived or were otherwise affected by terror attacks, they may not identify themselves as victims despite severe trauma, but may see themselves as 'survivors', which indeed they are. However, for practical reasons, this handbook will identify those involved by the word 'victim'.

Terrorist offence

The Counter-terrorism Directive lists the intentional acts that shall be criminalised as terrorist offences by Member States. These acts are discussed in detail in Subchapter 1.1 of the EU Handbook on Victims of Terrorism.

DEFINITION UNDER LUXEMBOURG LAW

Luxembourgish law provides three different ways to consider a person a victim. Firstly, according to art. 4-1, §1 of the Code of Criminal Procedure (hereafter: CCP), the status of victim is automatically granted to a person from the

moment he/she is identified as a victim (on the basis of the case file) and has suffered damage resulting from an offence. As soon as these two conditions are fulfilled, the person enjoys the rights related to this status.

Secondly, even if a person is not identified as a victim, they can still obtain the status of a victim by lodging a complaint. Lastly, a person, who would like to be compensated for the damage they have suffered as a result of a crime, has the option to obtain the status of civil party (*partie civile*) via criminal indemnification proceedings (*constitution de partie civile*). By obtaining this status, the person becomes a party to the proceedings. In general, as a party to the proceedings, the civil party enjoys all rights which are granted to this position.

Family members of the direct victim can, for example, claim moral damages due to the suffering caused to the victim as a consequence of an offence, specifically if the victim has been injured or dies. It should be noted, however, that the family member must lodge a complaint or obtain the status of civil party. Only in exceptional circumstances, including the case of a child whose parents' death was caused by an offence, will a family member automatically be granted the status of victim. In addition, Luxembourgish legislation does not foresee any limitations as to whom can be considered a family member. This is determined on a case-by-case basis.

IMPACT OF TERRORIST ATTACKS ON VICTIMS

All victims of all violent crimes face physical, mental health, and financial consequences; however, the impact on those present at a terrorist attack means the violence of their experience is different from that of their peers.

Physical consequences

Terrorists intend for their attacks to cause many casualties, as indicated by the weapons they use (firearms, explosives). Hence, the fatality rate in a terrorist attack is relatively high and injuries tend to be severe.

Mental health consequences

Victims experience fear and anxiety after a terrorist attack at levels that may not incur psychological problems, but that may have behavioural, relational and financial consequences. Post-traumatic stress is often diagnosed in victims following a terrorist attack. Victims may re-experience the event, have repeated and unwanted intrusive thoughts, hyper arousal, emotional numbing and/or avoidance of stimuli reminding them of the traumatic experience.

Financial consequences

Victims of terrorism may incur severe injuries, that are linked with a (higher) probability of developing a psychological disorder. This implies that the costs related to victimisation will be higher (for the victims, their property, their insurers and/or the government).

Future events

While the risk of involvement in another terrorist attack is relatively small, the perception of this risk may be high. Consequently, victims may experience feelings of insecurity, especially if they suffer from a Post-Traumatic Stress Disorder (PTSD). Perceived risk and the presence of PTSD contribute to psychological damage caused by terrorism.

Risk groups

Previous physical or psychological trauma, existing mental disorders, lack of social support and low socio-economic status may lead to a greater psychological impact on victims. Children and minority groups have a higher risk of developing psychological problems. Children are at risk when they are too young to be able to express their symptoms verbally or when the ability of parents to support them is diminished. Minority groups have a higher risk when their health literacy is low or if they have experienced similar trauma in the past.

Loss and grief

The sudden loss and violent death of a loved one in a terrorist attack may lead to complicated psychological reactions in family members, which may be further aggravated by the specifics of a terrorist attack: e.g. having to identify a severely damaged body.

Further reading:



- Letschert, R.M., Staiger, I., Pemberton, A. (2010) Assisting victims of terrorism: towards a European standard of justice
- Damiani, C., Victime et traumatisme, in Tigrane Tovmassian, L., & Bentata, H. (2013) Le traumatisme dans tous ses éclats, p. 61-70
- Ivanković, A., Altan, L., Verelst, A. (2017) How can the EU and Member States better help victims of terrorism?
- German Presidency Report (2020) State of play regarding support to victims of terrorism, particularly in cross-border situations
- Allegrezza, S. (2019) VOciare National Report Luxembourg

1.2 VICTIMS' RIGHTS TO RESPECT AND RECOGNITION

THE RIGHTS UNDER EU LAW

Recognition and respect underpin the healing process of victims as individuals and community members. Under EU law, Member States must ensure that victims are treated in a respectful manner by all those they come into contact with. Recital 16 of the Victims' Rights Directive mentions that victims of terrorism often need social recognition and respectful treatment by society.

Recognition and respect are established by ensuring that actors appreciate the victims' situation, their individual and group circumstances, the nature of the attack and how that can influence victims' behaviour.

Commemorative events and memorials form an integral part of the healing process for victims of terrorism, their families and all those affected.

Identification of victims and information about victims

The Counter-terrorism Directive requires Member States to have mechanisms and protocols in place that will activate support services for victims of terrorism immediately after an attack and that will facilitate the identification of victims and their families. In the aftermath of a terrorist attack, especially those involving a large number of victims, it is key to establish mechanisms of gathering information from the scene that serves multiple purposes. Identification is necessary to complete several key actions, including to:

- Establish the identity of the deceased and injured;
- Cross-refer these identities to the information received from the concerned public, friends and family members, who fear that their loved ones were at the scene;

- Enable the authorities to make sure that the loved ones are informed about the loss of life or injury of those who were identified at the scene;
- Inform external countries about the fate of their nationals.

Recognition

Society (local, regional or national government; politicians; media; support providers, and justice/law enforcement actors) can recognise victims of terrorism in many ways: formal written acknowledgement of status as (indirect) victim, remembrance ceremonies, memorials, financial compensation, and/or granting of specific rights. In its EU Strategy on victims' rights, the Commission urges Member States to ensure proper recognition for all victims of terrorism, especially since terrorist attacks are directed at the state and society as a whole.

Commemorative events and memorials form an integral part of the healing process for victims, their families and all those affected. While states may face competing community ideas in the preparation and delivery of such events, it is the wishes and input of the victims that are decisive in the development and realisation of any commemoration: this may be one of the few times victims come together.

Commemoration events provide victims as well as the general public with the opportunity to express feelings and opinions; to experience and receive social support; to show societal acknowledgment and to give meaning to the attack. If done properly, the commemoration can contribute to the victims' recovery process, however, as acts of remembrance may 'dilute' over time, changes in frequency and form should be discussed with the victims. 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 impact the victims' decision to attend anniversary events.

Respect

Treating victims with respect can significantly influence victim satisfaction with government and criminal justice systems. Fundamental to respectful treatment are:

- the way professionals interact with victims and
- the procedures and infrastructures in place.

The cultural and religious background of the individual victim of terrorism determine, to a large extent, what the victim considers respectful treatment.

Respect begins with empathy. Understanding the victims' situation empowers professionals to act in an empathetic manner. However, compassion should be moderated by sufficient professional distance to provide the best possible support.

Respect is not only important for individual victims, but also for the entire group victimised. It is particularly important for vulnerable victims or minority groups, the elderly, children and people with disabilities.

AN OVERVIEW OF RIGHTS IN LUXEMBOURG

Identification of victims

In Luxembourg, there is an early warning system for crisis response that might have a positive impact on identifying victims:

- The CGDIS is the national contact point for multiple international early warning systems, and is in charge of transferring urgent messages to the relevant authorities.
- Depending on the type and scale of situation, the relevant authority manages public information. In the case of a major incident, Luxembourg has a dedicated nationwide network of electronic sirens, operated by the CGDIS. Furthermore, information can be provided by TV, radio or internet via the communication service of the CGDIS or the crisis communication service of the HCPN.
- The population alert system, which is an integral part of the state's crisis

communication strategy, is a mobile phone alert and information notification system via SMS with national, or regional, coverage.

The purpose of the public SMS alert and information system is:

- To inform and alert the entire population of the Grand Duchy of Luxembourg (national)
- To inform and alert only a part of the population in the immediate environment of the danger (zonal)
- To inform and alert anyone who is about to enter the risk area
- The GouvAlert application can be downloaded free of charge by smartphone users. The application allows the users to receive alert messages based on their exact geographical location.

Furthermore, as part of the immediate Emergency Response, the CGDIS operates the national emergency number 112 and is the contact point for international emergencies. In the event of emergencies and disasters, the CGDIS leads rescue operations and reports to the Minister of Home Affairs. In a national crisis, inter-agency coordination is managed by the HCPN.

Respect and recognition

There is a tradition of national memorials in Luxembourg, such as the Kaddish Monument for Victims of the Holocaust, close to the Cathedral in Luxembourg's old town area. Periodic memorial ceremonies are held each year to honour the victims of terrorism, crimes and war, such as the victims of Nazi oppression, who have been commemorated since 1946. Medals and honours may also be awarded during commemoration ceremonies. A state pension, or other specific compensation, can be paid when a civil servant e.g. dies in service or is injured.

THE NEEDS OF VICTIMS OF TERRORISM RELATED TO THESE RIGHTS



EXAMPLES OF NATIONAL PERSPECTIVES OR INTERNATIONAL GOOD PRACTICES

INTERNATIONAL PRACTICES: COMMEMORATION

Following the 2017 Stockholm truck attack, the municipality of Stockholm organised a commemoration event to place a wreath on the anniversary of the attack. The lights on the Eiffel Tower were switched off on the evening of the attack to mourn the deaths. Nice, a city which bore witness to a similar but

deadlier attack in 2016, raised the Swedish flag at half-mast the day after the attack to show solidarity with the Swedish people. In Brussels, where a terrorist attack took place a year earlier, the ING Marnix building, near the Throne metro station, was also decorated with a moving Swedish flag animation.

Further reading:



- Ivanković, A., Altan, L., Verelst, A. (2017) How can the EU and Member States better help victims of terrorism?
- European Commission (2020) EU Strategy on victims' rights (2020-2025)
- VSE (2019) Remembering Victims of Terrorism: A guidance document

1.3 VICTIMS' RIGHTS TO ACCESS INFORMATION

THE RIGHTS UNDER EU LAW

The Victims' Rights Directive and the Counter-terrorism Directive set out the following minimal scope of a victims' rights to access information:

- the information should be easy to understand and available in multiple formats. In choosing the distribution medium particular attention should be paid to reaching vulnerable groups;
- the victims' right to receive advice and information on relevant legal, practical or financial matters as an integral part of the support offered to victims after a terrorist attack;
- the victims' right to receive information from the first contact with a competent authority;
- the victims' right to receive information on the investigation and justice procedures with regard to their case;
- the victims' right to understand and be understood.

AN OVERVIEW OF RIGHTS IN LUXEMBOURG

National law provides that the victim is informed about their right to receive information. Victims are told of the existence of victim support services by the Police. The Code of Criminal Procedure refers to «any victim», thus not restricting the provision of support services to victims who are parties to criminal proceedings or who have lodged a formal complaint. In practice, victim support also extends to close family members. Although there is no specific provision in the code of criminal procedure guaranteeing confidentiality and accessibility, both are implied by the fact that the victims support services depend on the prosecution office, so they are covered by the confidentiality of the procedure and are not allowed to

discuss victim information outside the judicial authorities.

The information is provided in the form of pre-printed brochures, drawn up in different languages (*Fiche infodroit*). The victim receives a brochure listing and explaining their rights. If necessary, and after having heard the victim, additional information (according to the needs of the specific victim, i.e. on financial issues, school for the children, management of work or housing contracts) is provided by the authorities themselves.

Regarding the type of support the victim is entitled to, in Luxembourg, victims must be informed of their rights but the extent of these rights is not specified in the law. However, emotional and psychological support, and advice and information on any relevant legal, practical or financial matters would, in practice, be provided to the victims in the case of a terrorist attack in Luxembourg; as they are for victims of crimes in general. The main mission of the generic victim support service is psychological assistance, psychotherapeutic follow-up for victims of criminal offences, information to victims of their rights and the judicial procedure, of the progress of the investigation, and their right to submit claims to the Compensation Commission of the Ministry of Justice. In practice, the Victim Support Service (*Service d'Aide aux Victimes - SAV*) can accompany victims in certain situations, such as when filing a complaint at a police station, accompanying victims to the Compensation Commission, or assisting and preparing victims before and during the trial in court.

If the victim does not speak or understand the language of the proceedings, they have the right to the (free) assistance of an interpreter from the time a complaint is lodged. In addition, the victim has a right to free translation of all documents that allow the effective exercise of their rights and the fairness of the proceedings. Assistance is also provided by a sign language interpreter, or any other qualified person, if the

victim has speech or hearing impediments. If necessary, the sign language interpreter can be present throughout the victim's interview, and the court hearing. In general, there are no difficulties in finding interpreters and sign language interpreters in Luxembourg.

In practice, the police authorities have been made aware of how to listen to specific victim groups, including, for example, victims with intellectual disabilities. Persons whose mental faculties are affected by sickness, infirmity or impairment due to age are often placed under one of three existing protective regimes: (1) supervision of justice (*la sauvegarde de justice*), (2) guardianship (*la tutelle*) and (3) trusteeship (*la curatelle*).

The victim is informed of their right to be accompanied by a person of their choice in their first contact with a competent authority by means of a brochure provided by the authority the victim first comes into contact with. An explanation is offered to the victims on the content of the brochure, if needed. When, due to the impact of the crime, the victim requires assistance to understand or to be understood, the victim is allowed to be accompanied by a trusted person who can promote and facilitate their understanding.

In Luxembourg, the victims' right to receive information on the investigation and justice procedures with regard to their case allows victims obtain updates on the state of the criminal proceedings, on request. Secondly, the victim, again upon request, is told of any final decision regarding the criminal proceedings. The victim can modify their request at any time. If there is a decision to dismiss prosecution, victims are automatically informed.

THE NEEDS OF VICTIMS OF TERRORISM RELATED TO THESE RIGHTS



EXAMPLES OF NATIONAL PERSPECTIVES OR INTERNATIONAL GOOD PRACTICES

In practice, it is essential that information is made available to victims of terrorism at all times. Information reassures victims, helps them understand and make decisions, and aids their recovery. The provision of adequate, timely information about the terrorist attack and its consequences is important to victims and their family members.

State authorities play a crucial role in providing accurate information after an attack. Government information is more effective when it is co-ordinated with civil society actors, media companies, social media, etc. Information can be divided into:

1. rights and services, actions and expectations – as required by EU rules;
2. factual and topical information regarding the attack, the current situation, and the condition of loved ones;
3. dealing with the attack (involving reassurance and psycho-education on normal reactions and practical suggestions to encourage healthy behaviour).

Further reading:



- Ivanković, A., Altan, L., Verelst, A. (2017) How can the EU and Member States better help victims of terrorism?
- German Presidency Report (2020) State of play regarding support to victims of terrorism, particularly in cross-border situations
- Allegrezza, S. (2019) VOCIARE National Report Luxembourg

1.4 VICTIMS' RIGHTS TO ACCESS SUPPORT SERVICES

THE RIGHTS UNDER EU LAW

The Victims' Rights Directive and the Counter-terrorism Directive set out the following minimal scope of a victims' rights to access support services:

- Ensure victims' access to generic and specialist support services that are confidential, free of charge and easily accessible;
- Provide at least the following support to victims of terrorism: emotional and psychological support, assistance regarding compensation claims and provision of adequate medical treatment;
- Facilitate referral of victims to support services by the competent authority.

This Subchapter focuses on the rights in relation to access to support services, as established mainly by the Victims' Rights Directive. Chapter Three describes the organisation of support in the specific context of terrorist attacks and other crisis situations in light of provisions in the Counter-terrorism Directive.

AN OVERVIEW OF RIGHTS IN LUXEMBOURG

In Luxembourg, victims are informed of the type of support they can obtain and from whom; such support is free of charge. The victim has the right to be assisted by several victim support services. In an attack happening in Luxembourg, initial support will be provided by the "Groupe de support psychologique". General and long term assistance for all victims is provided by the state, through the central assistance service of the General Prosecutor's Office ("Service d'Aide aux Victimes" SAV), which will register the victim and offer free social, psychological and psychotherapeutic support and legal assistance. All the psychologists, working for this service, also specialize in psycho-traumatology. The team consists of volunteer specialists in social

work education, psychology and psycho-trauma. Nevertheless, contrary to other type of offences, such as human trafficking or domestic violence, the general provisions on victims support do not provide for a support service specifically addressing the needs of victims of terrorism.

SAV is always available to all victims, regardless of the existence of any specialised assistance. While no mention is made in national law as to when the support ends, this is not prejudicial to victims: in practice, victims of crimes committed over 20 years ago are still being helped. Such services in Luxembourg are provided as an integrated part of the general victim support services.

The SAV generally offers a free and confidential service to all victims of criminal offences, children as well as juveniles, and adults, in addition to any relatives effected by their trauma, and to witnesses of a criminal offence. Lodging a formal complaint is not required in order to obtain assistance, although the Victim Support Service may sometimes recommend victims do so.

Consultations with the SAV are face-to-face and by appointment only. The latter requires that the victim (or relative or witness) must contact the SAV in advance rather than spontaneously. A disadvantage of the face-to-face support is that, as the SAV is only located in Luxembourg city, the person has to travel to the capital. While Luxembourg is a small country, it can take more than one hour to get there from northern Luxembourg. In addition, the SAV is only open Monday to Friday, between 8h00 and 18h00. In practice, if a victim only wants to receive information on his/her rights or has practical questions, these details can be given by e-mail or phone.

The service is available as soon as the victim contacts the SAV and continues for an appropriate time after the criminal proceedings, as required by the victim. In view of the introduction of new group sessions, the service generally would benefit from more space and staff.

Victims without a lawyer, who wish to receive legal information and support from the competent services, can also approach the Reception and Legal Information Service (Service d'Accueil et d'Information Juridique), a national general information service which helps individuals with legal questions in different fields of law. The service might then refer the victims to other services (the hospital or the legal service of the Luxembourg Bar Association). The Service has two offices, one in Luxembourg City and one in Diekirch, where victims can receive a free confidential interview with a professional of the Public Prosecutor's Office. In Luxembourg City, the service is available from Monday to Friday, from 8h30 to 12h00, and from 13h00 to 16h30, without an appointment, except on Monday mornings (schedule may change as per the current Covid-19 protocols). The premises in Diekirch are only open on Wednesdays, from 9h00 to 11h30 and from 14h30 to 17h00, again without an appointment.

Victims wishing specific information on their rights can contact the legal information service provided by lawyers of the local Bar Association¹ every Saturday morning, from 8h30 to 11h30, in Luxembourg City.

The police must inform each victim of the opportunity to receive free help and assistance by victim support services². In practice, the victim is told by means of the brochure given to them by the judicial police. In addition to information on the victim's right to contact a victim support service, the brochure also lists the most important services in this regard, both general support services offered by the state and specialist support services³.

In general, there is a very strong focus on raising awareness, not only of the victims themselves, but also among the actors with whom the victims come into contact during criminal proceedings. For example, the SAV visits schools to speak about its activities. Lawyers must complete an obligatory internship with the various services of the Central Social Assistance Service before joining the Bar.

All this shows that there is little chance that a victim will remain unaware of the existence of the different Luxembourg support services. After all, there are several channels through which the victim can be informed. Victims who have not contacted the SAV, but who, according to the assessment of a magistrate of the Public Prosecutor's Office, need its assistance, can be referred directly by the magistrate, who will reach out to the SAV on the victim's behalf; SAV staff will then reach out to the victim. The SAV does not only operate as a referral body, the victim may seek immediate assistance from a specialist support service without the intervention of the police or prosecutors⁴.

Although not required by law, in practice, the support service also provides advice on financial and practical issues. The Victim Support Service may advise the victim on the risks, and prevention of, secondary and repeat victimisation. The focus of the Victim Support Service is not on the crime committed, but on the victim.

1 <https://www.barreau.lu/>

2 Paragraph 2 art. 9-2 CCP

3 [Allegrezza, S. \(2019\) VOIARE National Report Luxembourg](#)

4 [Allegrezza, S. \(2019\) VOIARE National Report Luxembourg](#)

THE NEEDS OF VICTIMS OF TERRORISM RELATED TO THESE RIGHTS



EXAMPLES OF NATIONAL PERSPECTIVES OR INTERNATIONAL GOOD PRACTICES

As each victim will undergo a different recovery process, victims' needs change over time and the assistance and support provided has to be adapted to meet these changes.

Victims, especially if they have to deal with serious (mental) health problems after a terrorist attack, will face difficulties in absorbing information. Information on (organisations that provide) assistance and support will be more effective

when it is provided on different occasions. Ideally, those offering help will be proactive: reaching out to victims on a regular basis, finding ways and opportunities to connect with them. Victims need information on available services, but should not be coerced into using them.

Victim assistance centres

It is beneficial to set up a victim assistance centre after large-scale terrorist attacks: a one-stop-shop, where victims can go to get information and support.

INTERNATIONAL GOOD PRACTICES: SWEDEN AND FRANCE

116 006 is Sweden's national support line for all categories of victims and offers support to witnesses; chat available. Victim Support Sweden's helpline is open every day 9 to 7 pm and the chat line is open from 9 to 4 pm. Victim Support Sweden can offer support services in over 25 different languages.

In France, the "Centre d'Accueil des Familles" (CAF) was set up to provide immediate treatment and support to victims of the

Strasbourg terrorist attack of 11 December 2018, under the authority of the CIAV (*Cellule Interministerielle d'Aide aux Victimes*) and the administration of the City of Strasbourg, in cooperation with local associations. Nearly 700 victims were helped in the aftermath of the attack and, after the crisis phase, the centre became a victim support point, where various support services offered rehabilitation assistance to the survivors.

Central contact point within government

Currently, Luxembourg has appointed a single point of contact for victims of terrorism within the Ministry of Justice.

Further reading:



- Ivanković, A., Altan, L., Verelst, A. (2017) How can the EU and Member States better help victims of terrorism?
- German Presidency Report (2020) State of play regarding support to victims of terrorism, particularly in cross-border situations

1.5 VICTIMS' RIGHT TO ACCESS JUSTICE – PROCEDURAL RIGHTS

THE RIGHTS UNDER EU LAW

The Victims' Rights Directive and the Counter-terrorism Directive set out the following minimal scope of a victims' rights to access justice:

- the right to be heard;
- the right to access to legal aid, where victims have the status of parties to criminal proceedings;
- the right to reimbursement of expenses resulting from their active participation in the proceedings.

AN OVERVIEW OF RIGHT TO ACCESS TO JUSTICE IN LUXEMBOURG

With regard to the right to be heard, victims that are civil parties in criminal trials have the right to ask for evidence to be admitted before the investigative judge. Their request should list the witnesses the victim wants to be heard and the reasons why they should be admitted. Their relevance is appreciated by the investigative judge. As a consequence, the victim might request to be heard only when they participate as a civil party, otherwise their deposition is limited to the cases in which it is requested by the investigative judge or by the other civil parties.

The victim can be heard as a witness at different phases of Luxembourg criminal proceedings. First, the victim can be heard, during the investigation, by the prosecutor or by the police officers in charge of the case. If the questioning occurs before the opening of the case, the police officers can ex officio ask for the victim's contribution. When an investigation is formally opened, the prosecutor is in charge but might delegate the collection of evidence to the police. When the victim has been questioned, the police officers draft a report including all the victims' statements.

Furthermore, the victim may be required to make a deposition before the investigative judge (juge d'instruction). In this case, the victim receives a subpoena from the judge and their presence is mandatory, under threat of a fine. The usual rules on testimony apply: the victim shall tell the truth under oath in front of the investigative judge without the presence of the defence lawyer. If the witness has been requested via a formal complaint from another victim, he/she can refuse to talk but can be questioned as a defendant, if there is enough evidence to presume his potential guilt.

In Luxembourg, any person of insufficient means can request legal aid. In cross-border disputes, the person having his domicile or his habitual residence in Luxembourg can benefit from legal aid to obtain legal advice, including the preparation of an application for legal aid from another EU Member State. Similarly, foreign nationals who have their domicile or residence in another EU Member State, with the exception of Denmark, may also benefit from legal aid in the Grand Duchy in cross-border disputes. However, they must make the request to the competent authority of their country of residence, which will forward the information to the Luxembourg Ministry of Justice. Legal aid may also be granted to any foreign national whose resources are insufficient for proceedings for the right of asylum, access to the territory, residence, establishment, and removal of foreigners. In practice, foreigners who are victims of a crime in Luxembourg would be first and foremost protected as such (and often provided lodgings) and encouraged to make an application for asylum which is supported by legal aid.

Luxembourgish law grants victims the right to access legal aid according to the same conditions as the defendant.

To be eligible for legal aid, the victim's revenues should not exceed a specified amount, regulated

by the national minimum wage. The assessment is based on the total gross income and capital of the applicant, and other members of the household (roughly 1890 euros per month per adult). If the victim is eligible for legal aid, the following costs of a trial can be paid through legal aid: stamp and registration duty; costs incurred by the clerk's office; fees and costs charged by bailiffs; experts' costs and fees; translators' and interpreters' fees; witnesses' attendance allowances; travel expenses; publication costs and, of course, lawyers' fees and emoluments.

The decision to grant legal aid rests with the President of the Bar, in the applicant's district of residence. In the case of non-residents, it is the President of the Luxembourg Bar Council who decides. The President of the Bar in the applicant's district of residence appoints the lawyer freely chosen by the applicant. Where no lawyer has been chosen by the applicant, or if the chairman considers the choice inappropriate, counsel is designated by the latter. Except for reasons of impediment or conflicting interests, the counsel may not refuse the appointment. In emergencies, the President of the Bar Council or his/her deputy, can grant legal aid on a temporary basis without further formalities.

Victims that are civil parties in the trial have the right to claim three types of expenses related to the proceedings: legal or court costs (les frais, les dépens), legal fees (les honoraires d'avocat) and other, practical, expenses.

When it comes to the court costs, the principle 'the loser pays it all' applies. The court may take into account the circumstances and the financial situation of the civil party, so as to reduce or cancel the court costs. The court costs shall not include the costs incurred for interpretation and translation, as these are met by the State.

Contrary to the court costs, each party is in principle held to bear their own legal fees, since these depend on several subjective factors. An exception to this rule has, however, been made by the system of the procedural indemnity (l'indemnité de procédure). Under this system, based on fairness, the successful civil party can obtain reimbursement from the defendant of their legal fees up to the amount determined by the court. This amount generally has a ceiling of 1.000 to 2.000 euros. In addition, it is possible that victims have their travel and accommodation costs considered court costs in the form of witness fees.

THE NEEDS OF VICTIMS OF TERRORISM RELATED TO THESE RIGHTS



EXAMPLES OF NATIONAL PERSPECTIVES OR INTERNATIONAL GOOD PRACTICES

Large scale attacks

Criminal proceedings and trials for large scale attacks are complex. Large numbers of victims and witnesses are involved, and all share the right to participate in the trial. States may need to establish special measures to facilitate participation, which may include holding trials in larger secure locations to accommodate those involved.

If trials for terrorist attacks and other disasters involve large numbers of victims, there may be a requirement for more support compared to other criminal proceedings.

CASE STUDY - ADDITIONAL SUPPORT TO VICTIMS DURING CRIMINAL PROCEEDINGS FOR LARGE SCALE ATTACKS – GOOD PRACTICE:

In the context of the trial for the Madrid attacks of 11 March 2004, one of the largest ever held in Spain, a special pavilion was set up for social workers, psychologists and

other support staff/volunteers to provide emotional and practical assistance to victims attending the trial in person.

Public inquiries

Victims of terrorist attacks, as other victims, express a need for truth. They want to know what happened, how it happened, who was involved and why. The instigation of formal criminal procedures takes time and victims are often left without answers. A public inquiry can serve as an alternative means of answering the questions of victims and society as a whole.

Further reading:



- Ivanković, A., Altan, L., Verelst, A. (2017) How can the EU and Member States better help victims of terrorism?
- German Presidency Report (2020) State of play regarding support to victims of terrorism, particularly in cross-border situations

1.6 VICTIMS' RIGHTS TO PROTECTION: PHYSICAL AND PRIVACY

THE RIGHTS UNDER EU LAW

The Victims' Rights Directive and the Counter-terrorism Directive set out the following minimal victims' rights to protection, in particular physical protection and privacy:

- Availability of measures for the protection of privacy, personal integrity and personal data of victims and their family members, particularly in the context of criminal proceedings. In balancing these measures against the pluralism and freedom of the media, self-regulatory measures should be encouraged;
- Availability of measures to protect victims and their family members from intimidation and retaliation as well as from the risk of emotional and psychological harm;
- Requirement for an individual assessment of victims' protection needs to determine whether and to what extent the victim would benefit from special measures in the course of criminal proceedings.

AN OVERVIEW OF RIGHT TO PROTECTION IN LUXEMBOURG

Under Luxembourgish law, the right to protection is guaranteed by a series of measures that may vary depending on the criminal offence at stake. Such an approach is aimed at providing the competent authorities with the prevention measures that are relevant to the risks faced by the victim of a specific crime.

In the context of protection of the victim, the general rule is that, in case of crimes and misdemeanours against persons, the investigating judge or the investigating court makes the provisional release of the suspect conditional on not contacting the victim in any way. In practice, the authorities apply a case-by-case approach to determine if, and which, protection measures are necessary: for instance prohibiting the offender from

contacting or approaching the victim or specific places, deprivation of liberty or denial to access information that would enable the accused to locate the victim if that may lead to a serious threat to the victim's life or fundamental rights. These protection measures have so far proved to be sufficient and the interviews highlighted no problematic issue on this concern.

With regard to reducing contact between victims and offenders, in Luxembourg the current layout of the courtrooms has not yet been adapted to avoid this sort of contact. There are also no separate waiting rooms for victims and offenders within the court buildings. If there are foreseeable difficulties, specific arrangements can be made to address this problem: police presence, placement of the victim in a secure location, etc. The Public Prosecutor's Office, together with the Registrar, try to prevent witnesses and victims, in sensitive cases of major crimes, from being confronted by the offender(s) or their families when coming to court. These persons may be accommodated in a special room and will only be brought into the courtroom during the hearings. The public does not have access to the investigation offices and any contact can only take place in the presence of the investigating judge, which limits the risk of intimidation.

During the criminal trial, the victim can be accompanied by a lawyer (legal representative) and, during criminal investigations, by a person of the victim's choice.

Finally, Luxembourgish legislation provides for the witnesses, including victims and any minors, to have their interviews recorded, using audio-visual equipment, and included in the court hearing.

The protection of privacy for victims of criminal offences is ensured, by means of the confidentiality of the investigations. In practice, the rules intend to prevent information related to ongoing criminal proceedings, including data related to the victim, are reported to the

public. As an exception to public hearings, trial courts may decide to hold a hearing in camera, i.e. without the presence of the public if the interests of minors or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

Apart from the option to use recordings rather than physical testimony at the trial stage, neither in the code of criminal procedure nor

in specific laws is there provision for the risk of intimidation and retaliation, and the need to protect the dignity and physical integrity of victims of terrorism.

National law only provides that the victim is informed of their right to receive an individual assessment from the victim support service. Nevertheless, it can be inferred from the wording of the provision that the victim is indeed entitled to such an individual assessment of their specific needs.

THE NEEDS OF VICTIMS OF TERRORISM RELATED TO THESE RIGHTS



EXAMPLES OF NATIONAL PERSPECTIVES OR INTERNATIONAL GOOD PRACTICES

While governments may agree that the (social) media, with its various roles, can be a strategic resource at times of crisis, finding the right tone in communicating with the media is a challenge. To be able to practise reliable, respectful messaging, to prevent the spread of rumours and to contribute to the recognition of those affected by terrorist attacks, government officials must work hard to communicate with the media.

To make communication more manageable, state authorities can proactively approach the media in the aftermath of a terrorist attack. However, to make the best of the relationship, communication frameworks should be defined, key messages prepared, and the timing of press releases coordinated.

There must be a balance between respecting the privacy and needs of victims and their relatives, and informing the public through media channels. Information from government sources must respect the dignity and security of victims, particularly children. Secondary victimisation must be avoided. In the medium- to long-term, personalised information should be made available to victims and relatives prior to a formal report being made publicly available through media channels.

TERRORIST ATTACKS, MEDIA AND VICTIMS' PROTECTION – GOOD PRACTICE:

In France, the French Audiovisual High Council (*Conseil Supérieur de l'Audiovisuel*, CSA) held hearings with victim support associations and other authorities, to draft a Charter of

Media Good Practices during Terrorist Attacks, which included a reminder of existing ethical guidelines.

Victims and the media/ right to privacy

It is difficult to balance the freedom of the media, the general populations' need for information and the privacy protection of victims. While speaking out in the media can be empowering for victims and helpful to the general public, intrusive media attention may violate their privacy and negatively affect the lives of those portrayed, even in the future. Information may be(come) distorted or manipulated, by journalists or others using news footage.

For example, in the aftermath of an attack or disaster, broadcast and print media show images of the scene of the attack and, potentially, of victims and witnesses. These images will likely be shown again in light of commemorations and remembrance activities of this attack or disaster, which is re-traumatising to victims and victims' families. It is advised that victim support organisations are sensitised about the recurrence of distressing images in order that this can be dealt with in a victim-sensitive manner.

It is difficult to restrict harmful information flows on social media channels. However, these can be useful tools for victims and law enforcement agents in the aftermath of an attack. For example, Twitter users started posting pictures of cats after a request from the Belgian authorities not to share information on ongoing police activity during the Brussels lockdown following the Paris attacks in November 2015.

Further reading:



- Ivanković, A., Altan, L., Verelst, A. (2017) How can the EU and Member States better help victims of terrorism?
- UNESCO (2017) Terrorism and the Media: A handbook for journalists
- BBC: Belgians tweet cat pictures during #BrusselsLockdown

1.7 VICTIMS' RIGHTS TO PROTECTION: SECONDARY VICTIMISATION

THE RIGHTS UNDER EU LAW

According to the Victims' Rights Directive and the Counter-terrorism Directive, Member States should ensure that measures are available to protect victims and their family members from secondary victimisation.

Terrorist attacks result in deaths, physical and psychological injuries or material damages that affect those involved. This is called primary victimisation: the direct consequences of the violent act. If, in the aftermath of an attack, victims receive poor or inadequate assistance from the staff and institutions in charge of their care (public authorities, first-responders, state security forces, social workers, lawyers), their suffering can be aggravated. This is known as secondary victimisation, re-victimisation or double victimisation.

Causes

The effect of an attack on victims can be magnified in many ways:

- repetition of statements in police interrogations;
- lack of information;
- government, police or hospital staff engrossed solely in the immediate events without attending to the shock suffered by the victims;
- experts questioning the credibility or mental health of victims;
- delay in judicial procedures, confrontation with terrorists in the court room, having to recount publicly and in detail their traumatic experience;
- media exposure;
- lack of support from people at the workplace, school, university.

Solutions

It should be kept in mind that many solutions reflect the understanding that victims of terrorism are in an abnormal situation and require greater care. Such solutions can include training of professionals on how to engage with victims of terrorism, specific procedures, nomination of staff solely for these cases, forward planning and ensuring victims' participation.

AN OVERVIEW OF RIGHT TO PROTECTION FROM SECONDARY VICTIMISATION IN LUXEMBOURG

Regarding individual assessment, in Luxembourg, the victim must be informed of the right to an individual assessment by the Victim Support Service in order to verify the need for any specific protection measure, so as to prevent secondary victimisation. It is thus not up to the police officers to undertake an individual assessment, but is the purview of the Victim Support Service psychologists.

THE NEEDS OF VICTIMS OF TERRORISM RELATED TO THESE RIGHTS



EXAMPLES OF NATIONAL PERSPECTIVES OR INTERNATIONAL GOOD PRACTICES

It is worth repeating the international good practice example used in section 1.5 above, that, in the context of the Paris trial for the January 2015 attack, which has already taken place, victims were allowed to give their testimony at the very beginning of the trial.

Further reading:



- Ivanković, A., Altan, L., Verelst, A. (2017) How can the EU and Member States better help victims of terrorism?

1.8 VICTIMS' RIGHTS IN RELATION TO ACCESS TO COMPENSATION

THE RIGHTS UNDER EU LAW

The Victims' Rights Directive, the Counter-terrorism Directive and the Compensation Directive set out the following minimal scope of a victims' rights in relation to compensation:

- Member States' obligation to set up a scheme on compensation for victims of violent intentional crimes committed in their respective territories, which guarantees fair and appropriate compensation to victims and applies to cross-border situations;
- Provision of advice, support and assistance to victims, including cross-border victims, regarding compensation claims.

AN OVERVIEW OF RIGHTS LUXEMBOURG

There is no specific compensation scheme in place for victims of terrorism. Financial assistance will be provided based upon the legislation applicable for victim's compensation. In Luxembourg, any victim of a violent crime, having suffered physical injury in the country or abroad as a result of deliberate acts, which constitute a criminal offence, can apply for compensation from the State, if they cannot be compensated by an unidentified, insolvent or unknown offender.

To qualify for compensation, the following conditions must be met: for offences committed in Luxembourg, victims must either: have their legal and usual place of residence in Luxembourg; be legally present in Luxembourg at the time of the offence; be a national of a Member State of the European Union (EU) or of

the Council of Europe; for offences committed abroad, victims must regularly and habitually reside in Luxembourg.

Regardless of where the offence was committed, the following conditions must also be met: the injury suffered must be the result of deliberate acts (assault, rape, etc.) which constitute a criminal offence; the deliberate acts must have caused bodily injury resulting in death, permanent disability or a total incapacity from work for more than one month. The injury must cause a serious disruption of life circumstances resulting from: a loss or reduction in income; an increase in exceptional expenses or charges; the inability to engage in a professional activity; the loss of one year of schooling; physical or mental injury or non-material or aesthetic damage or physical or mental suffering. The victims must be unable to obtain effective and sufficient compensation in other ways (e.g., from the offender, the social security services, private insurance, or another State if the offence was committed abroad).

Applications for compensation must be sent to the Ministry of Justice, which will make a decision within 6 months. The application must be submitted within 2 years of the date on which the offence was committed. Victims may also seek help and advice on submitting their applications from the Legal Reception and Information Service (Service d'accueil et d'information juridique) and the Victim Support Service of the Central Social Assistance Service (Service central d'assistance sociale).

Currently, no more than EUR 63,000.00 may be awarded as compensation (the amount is set annually by Grand Ducal regulation).

THE NEEDS OF VICTIMS OF TERRORISM RELATED TO THESE RIGHTS



EXAMPLES OF NATIONAL PERSPECTIVES OR INTERNATIONAL GOOD PRACTICES

EMERGENCY PAYMENTS AND COMPENSATION TO VICTIMS OF TERRORISM – GOOD PRACTICE:

In France, between 24 and 48 hours after a terrorist attack, the Guarantee Fund for Victims of Terrorist Acts and Other Offences (FGTI) pays a provisional compensation sum to cover immediate costs. Thereafter, and at the latest within one month from receiving

a valid claim from the victim, the FGTI will pay out an initial amount with additional amounts paid based on costs incurred and foreseeable final damages. Additional types of harm, such as anxiety, have been recognized for compensation payment eligibility.

Further reading:



- Ivanković, A., Altan, L., Verelst, A. (2017) How can the EU and Member States better help victims of terrorism?
- VSE (2019) A Journey from Crime to Compensation
- German Presidency Report (2020) State of play regarding support to victims of terrorism, particularly in cross-border situations

2. CONSIDERING PARTICULAR GROUPS OF VICTIMS

2.1 CROSS-BORDER VICTIMS

THE RIGHTS UNDER EU LAW

The Victims' Rights Directive, the Counter-terrorism Directive and the Compensation Directive set out the following minimal scope:

- Appropriate measures should be taken to minimise the difficulties faced where the victim is a resident of a Member State other than that where the criminal offence was committed;
- Expenses, incurred as a result of their active participation in criminal proceedings and according to their role in the relevant criminal justice system, should be reimbursed;
- Member States should ensure that victims of terrorism, who are residents of a Member State other than that where the terrorist offence was committed, have effective access to information as well as access to support services;
- Appropriate action should be taken to facilitate cooperation between Member States to improve victims' access to the rights.

AN OVERVIEW OF RIGHTS IN LUXEMBOURG

The definition of victims in Luxembourg criminal law is all encompassing, and therefore the rights of victims are not subordinated to residence status/migration status or domicile requirements. In particular, the victim shall be informed of the arrangements for exercising their rights if they reside in another Member State of the Union. Therefore, the Luxembourg system recognizes the full set of rights to victims of crime, regardless of their nationality. Foreign victims (citizen of a Member State or of a third country) enjoy all the rights conferred to the victim that is a Luxembourg citizen.

When the victim is a Luxembourg resident and they suffer a crime committed within the European Union, they can report the crime to any Luxembourg law enforcement agency, if it was not possible to report the crime where it occurred.

As mentioned above, citizens from other countries, who become victims in Luxembourg, enjoy the right to information, to participation and to interpretation and translation. They have access to the legal aid service and enjoy the same protection throughout the criminal proceedings.

Nevertheless, if the victim wants to participate in the criminal trial as a witness, no specific legal basis for the questioning via videoconference is provided by Luxembourg law.

THE NEEDS OF VICTIMS OF TERRORISM RELATED TO THESE RIGHTS



EXAMPLES OF NATIONAL PERSPECTIVES OR INTERNATIONAL GOOD PRACTICES

IDENTIFICATION AND SUPPORT - GOOD PRACTICE EXAMPLE ITALY:

The opportunity to transfer victims' data across borders is enabled through bilateral agreements with other countries via liaison officers, who share information on the investigation and news about the victims of the terrorist attack. For example, various

collaborative activities have taken place after events that occurred abroad, these include carrying out DNA research and the identification of victims by specialized Italian government personnel.

Further reading:



- Ivanković, A., Altan, L., Verelst, A. (2017) How can the EU and Member States better help victims of terrorism?
- German Presidency Report (2020) State of play regarding support to victims of terrorism, particularly in cross-border situations

2.2 CHILDREN

THE RIGHTS UNDER EU LAW

The Victims' Rights Directive and the Counter-terrorism Directive set out the following minimal scope:

- Member States should ensure that the child's best interests are the primary consideration and the specific protection needs of child victims are assessed;
- Special protection measures for child victims should be available in light of judicial proceedings;
- The public dissemination of any information that could lead to the identification of a child victim should be prevented.

IMPACT OF TERRORIST ATTACKS ON CHILDREN

Most children respond sensibly and appropriately to disaster, especially if they experience protection, support, and stability from their parents and other trusted adults. Like adults, they may exhibit a wide range of reactions in the aftermath of a terrorist attack: headaches and stomach pain. It must be noted that children's fears may also stem from their imagination as, unlike adults, they are less able to judge which fears are real and which are not; however, their fears should be taken seriously. Information for children and adolescents should be provided in an age-appropriate manner. For child survivors of terrorism: remember to also ask about the health and wellbeing of their brothers and/or sisters.

THE RIGHTS UNDER LUXEMBOURG LAW

Luxembourg law considers minors to be particularly vulnerable and thus in need of specific protection. As a result, different measures are aimed to protect minors throughout the criminal proceedings. In particular, the audio or

video recording of interviews is mandatory when the witness is a minor and the crimes relate to indecent assault and rape, prostitution, exploitation and trafficking in human beings, murder, intentional manslaughter, assault and battery. An exception can be made if the minor, or their legal representative, opposes the recording. The audio or video record is sealed and may be used as evidence in a trial, to be examined by the different parties, including the defence, and by the experts.

Special protection is also afforded to minors at the trial stage. For instance, hearings in camera take place if the interests of the minors so require. Likewise, when the victim is a minor, no oath is taken and the same guarantees as provided for the deposition before the police or the prosecutor (audio and video recording) apply.

If the victim is a minor, they have a number of additional rights:

- For offenses such as indecent assault, rape and trafficking in human beings, sexual exploitation, homicide not classified as murder, wilful assault and battery, abuse and drug administration committed against a minor victim, any statute of limitations applicable to the offense, ie a period after which these offenses can no longer be prosecuted, will not come into force until the day the minor turns 18;
- If the protection of the victim's interests is not fully ensured by at least one of their legal representatives, a special representative – an ad hoc administrator – can be appointed by the State Prosecutor or the examining magistrate. This special representative ensures the protection of the minor's interests and exercises the minor's rights as a civil party;
- To be informed of the opening of criminal proceedings and of the right to file a civil action by their legal representative or ad hoc administrator.

THE NEEDS OF VICTIMS OF TERRORISM RELATED TO THESE RIGHTS



EXAMPLES OF NATIONAL PERSPECTIVES OR INTERNATIONAL GOOD PRACTICES

Interaction between TV broadcasting or written media and children

GOOD PRACTICE EXAMPLE – ITALY:

In accordance with the Italian National Press Federation's Charter of Journalists' duties to minors and vulnerable subjects, journalists shall respect the principles enshrined in the 1989 UN Convention on the Rights of the Child and the rules enshrined in the Treviso Charter for the protection of the child, both as an active protagonist and as a victim of a crime. In particular, journalists:

- a. shall not publish the name or any detail that may lead to the identification of minors involved in the news;
- b. shall avoid possible exploitation by adults who are inclined to represent and give priority solely to their own interests;
- c. shall assess, in any event, whether the dissemination of the information concerning the child would actually serve the child's interest.

Interaction between caregivers and children

GOOD PRACTICE EXAMPLE – CROATIA:

Good practice example – Croatia: In criminal proceedings involving children, all information and announcements need to be confirmed by the child, through their explicit statement that they understood the meaning of the

information. In this process, the participation of a professional supporter is fundamental, since they are tasked with explaining to the child, in an appropriate manner, the meanings of different procedural steps and statements.

Further reading:



- Ivanković, A., Altan, L., Verelst, A. (2017) How can the EU and Member States better help victims of terrorism?

3. ORGANISING SUPPORT

3.1 PREPARATION AND ORGANISATION OF THE SUPPORT FOR VICTIMS OF TERRORIST ATTACKS

THE RIGHTS UNDER EU LAW

The Victims' Rights Directive and the Counter-terrorism Directive set out the following minimum requirements for the preparation and organisation of support of victims in terrorist attacks:

- Organise training on victims' needs and how to treat victims for practitioners that come into contact with victims;
- Ensure that mechanisms or protocols are in place allowing for the establishment of support services for victims of terrorism within the framework of the national emergency-response infrastructures;
- Ensure a comprehensive response network tailored to the specific needs of victims of terrorism.

It should be noted that the availability of an extensive response network depends on Member States' past experiences with terrorist attacks. Some Member States have not yet developed protocols for the establishment of a specific response network to terrorist attacks. Where such specific response network is not available, it is our understanding that existing crisis response structures can be adapted to terrorist attacks.

AN OVERVIEW OF RIGHTS IN LUXEMBOURG

In general, all professionals involved in organising emergency response and support for victims of crime are well trained and well educated. Specific training programmes are provided for the police, the Police Academy hosts SAV training courses on the needs of victims, for the judicial authorities and for the victims service

professionals. These training programmes are usually mandatory and should be renewed during their careers. Nevertheless, no official list of the different training programmes is available.

Luxembourg ratified several conventions and international instruments of mutual assistance and judicial cooperation that relate to terrorism and the rights of victims, in particular:

Council of Europe:

- European Convention on Mutual Assistance in Criminal Matters, April 1959 (ratified by Luxembourg in 1976);
- European Convention on the Compensation of Victims of Violent Crimes, November 1983 (in force in Luxembourg since 1988);
- Convention on Cybercrime, November 2001 (in force in Luxembourg since 2015);

European Union:

- Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, May 2000 (into force in Luxembourg since August 2010);
- Directive 2014/41/EU of 3 April 2014 regarding the European Investigation Order in criminal matters (implemented in Luxembourg in August 2018).

Besides multilateral conventions, Luxembourg takes part in regional initiatives and agreements. An illustration thereof is the declaration signed in 2016 by the Benelux countries with the aim to enhance cooperation on the topic of Victims of Ethnic and Religious Violence in the Middle East.

Lastly, the State of Luxembourg regularly supports awareness raising programs and initiatives coordinated or launched by international actors.

PREPARATION AND TRAINING – NATIONAL PERSPECTIVES OR INTERNATIONAL GOOD PRACTICES

Planning and co-operation

Beyond planning and preparation mechanisms for disaster and terrorism, specific roundtables are organised to discuss issues relating to all victims of crime, roundtables are organised with different stakeholders to share information and experiences. These roundtables provide a range of different stakeholders a forum to share information and experiences on rights and services for victims. This allows different agencies to discuss their cases and their approach to them, mutually raise awareness on details of each other's work protocol and create a shared understanding of the criminal procedure. victims of terrorism specific topics have not been discussed so far in detail.

Training

As a complementary measure to ensure that judicial authorities carry out adequate needs' assessments of victims of crime, the state should provide comprehensive training programmes to all professionals who come in contact with victims. These programmes should have an interdisciplinary approach and should include elements of victim and child psychology, sociology, and victimology. Moreover, these training programmes should bring together professionals from different sectors, such as police officers, magistrates, attorneys, as well as psychologists and social workers, to ensure a multifaceted approach to victims.

EMERGENCY RESPONSE PHASE – NATIONAL PERSPECTIVES OR INTERNATIONAL GOOD PRACTICES

Within the emergency response activities, for events such as terrorist attacks, local public administration authorities have the obligation to ensure support for victims of crime, at the request of the authority coordinating the emergency response. Public authorities and institutions are obliged to collaborate by exchanging personal data, to identify victims of crime, in emergency response activities.

MEDIUM- AND LONG-TERM – NATIONAL PERSPECTIVES OR INTERNATIONAL GOOD PRACTICES

In general terms, there are a number of associations and other public as well as private institutions that can provide long term humanitarian and personal assistance.

With regard to international good practices in long-term monitoring and assistance for victims of terrorism, close cooperation, in particular between Belgium and Spain, has enabled victims of terrorism and their loved ones to be assisted on their return to their country of residence, to be informed of their rights and the services in place to support them (compensation, medical and psychological support, etc.

Further reading:

- German Presidency Report (2020) State of play regarding support to victims of terrorism, particularly in cross-border situations



3.2 ORGANISATION OF SUPPORT TO VICTIMS OF TERRORISM

THE RIGHTS UNDER EU LAW

The Victims' Rights Directive and the Counter-terrorism Directive set out the following minimal requirements for the organisation of support of victims in terrorist attacks:

- The availability of support services immediately after a terrorist attack and for as long as necessary. These support services should be confidential, free of charge and easily accessible to all victims of terrorism;
- The establishment of free of charge and confidential specialist support services in addition to, or as an integrated part of, general victim support services, or to enable victim support organisations to call on existing specialised entities providing such care;
- Ensure that mechanisms or protocols are in place allowing for the activation of support services for victims of terrorism within the framework of the national emergency-response infrastructures.

AN OVERVIEW OF RIGHTS IN LUXEMBOURG

The Ministry of Justice was recently appointed single contact point for victims of terrorism, it is also a member of the ENVR, is the designated contact point for victim's compensation and is member of the EU Platform for Victim's rights. In an attack, the Ministry of Justice communicates with its counterparts in other European countries, through existing networks. Furthermore, information exchange exists at the diplomatic level, involving the Ministry of Foreign affairs and the Permanent Representations.

In Luxembourg, two emergency plans are currently applicable in the event of a terrorist attack:

- the government plan for national vigilance in the face of threats of terrorist action, known as "VIGILNAT", approved by the Government Council on 21 June 2017.
- the "many victims" plan, approved by the Government Council on 20 September 2001.

VIGILNAT is a tool for identifying a terrorist threat, constantly assessing the probability of a terrorist threat. The "many victims" plan defines the national mechanism in the event of incidents involving numerous victims on the territory of the Grand Duchy of Luxembourg. It requires that the Reception Service for Involved Persons (SAI) provides moral and psychological assistance to those involved. The SAI is arranged by the Psychological Support Group of the Civil Protection and by the Psychological Service of the Grand-Ducal Police. At the request of the SAI, medium-term psychological follow-up of victims and their relatives may be provided by the competent services of the Ministry of Family, Integration, and the Greater Region.

In terms of immediate support, victims are taken care of at the place of the attack and at the hospital. As regards medical care, recourse will be given to existing hospital infrastructures and, if necessary, to the support of hospitals in neighbouring countries.

THE NEEDS OF VICTIMS OF TERRORISM RELATED TO THESE RIGHTS



EXAMPLES OF NATIONAL PERSPECTIVES OR INTERNATIONAL GOOD PRACTICES

Whilst it is evident that victims have a right to support, it is not always clear how that support should be organised in any given country: who should provide it, how should it be made available, and what services should be offered? There is no one-size-fits-all answer to these questions. Each Member State will find solutions that take into account their specific national circumstances. Victim support can be provided by the state, by victim support organisations, or by a combination of both.

Victims' associations

Peer groups are valued because of the understanding and shared experience of those involved. Peer groups can therefore provide support that is particularly beneficial to those affected. These groups are largely formed spontaneously thanks to individual contacts between those affected, experiences they exchange and mutual support.

Certified psychotrauma experts

Most EU Member States have active National Psychotrauma Centres equipped to support persons suffering from PTSD and other disorders.

The EUCVT has compiled a list of Psychotrauma experts, based in Europe, who have all been invited to join the online expertise Hub with a view to exchanging best practices and increasing expertise at the national level.

Further reading:

- German Presidency Report (2020) State of play regarding support to victims of terrorism, particularly in cross-border situations



4. EUCVT

The European Commission set up the EU Centre of Expertise for Victims of Terrorism (the EUCVT) in January 2020, as a two year pilot project, to offer expertise, guidance and support to national authorities and victim support organisations.

Expertise is available on all matters related to victims of terrorism: e.g. on their needs, their rights according to EU legislation, the psychological consequences of terrorist attacks and therapies available for victims, and judicial processes.

During the term of the pilot project, national authorities (departments of justice, of health, of the interior; national organisations of the police, public prosecution or law courts; national first responders; NGOs that support victims of terrorism) may contact the EUCVT for expertise, guidance and/or support.

The EUCVT is unable to provide direct help and assistance to individual victims of terrorism. However, victims that contact the EUCVT will be referred to the authority or service provider in the appropriate Member State (or in other countries as required) that can support them.

Website

- Basic information on the rights of victims, on the needs of victims and on available support for victims of terrorism is available on EUCVT's website.
- The website also contains key documents on victims of terrorism, links to online resources, video statements of victims of terrorism and the professionals involved in their support.

Experts

- The EUCVT has an extensive network of available experts, including victims of terrorism, practitioners and researchers from Member States and around the world. The EUCVT will connect you with the relevant experts as required.
- EUCVT experts are available, at short notice, to deliver their advice in person in EU Member States. The costs involved shall be borne by the Member State making the request for assistance.

Contact details

eucvt@victimsupporteurope.eu

Further reading:

 [EU Centre of Expertise for Victims of Terrorism](#)

