



The right to compensation for victims of terrorist attacks in italian legislation

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Since the '80s and onwards, the crime victim received particular attention in criminal policy and subsequently also in criminal legislation. This led to legislation protective regarding possible adverse impacts of criminal proceedings and supportive regarding compensation of material and immaterial losses caused. During the '70s, terrorism- then found mostly in the form of national, separatist and political terrorism- started to trouble European countries. The policy response was more or less restricted to tailoring police and criminal procedure laws to the new demands placed on law enforcement. It was only after the attack on the World Trade Center on 9/11 with its devastating consequences for civil society and the extreme toll on human lives, that more attention has been devoted to the question of how victims of terrorist attacks can be better accommodated. This process has been accelerated by the terrorist acts in Madrid in 2004 and London in 2005.

Of course, the general promotion of the right of victims of crime to compensation has been on the international political agenda since the late '70s. The 1985 UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, the 1983 European Convention on the Compensation of Victims of Violent Crime and the 1987 Recommendation No. R (87) on the Assistance to Victims and the Prevention of Victimisation were certainly the most influential international documents-cornerstones in this field. However, they refer to the situation from a general prospective at most, focusing on all kinds of serious crime.

As a consequence of the terrorist attacks of 9/11 and the public awareness of victims of terrorism, the issue now receives special attention. At their Conference in October, 2003 in Sofia, the European Ministers of Justice invited the Committee of Ministers to adopt new rules concerning the improvement of the support towards victims of terrorist attacks and their families. In March 2005 the Committee of Ministers adopted new guidelines on the protection of victims of terroristic acts. It considered that victims directly or indirectly suffering from harm caused by such acts should receive national and international solidarity and support. Under article VII (1), the guidelines provide that "*victims of terrorist acts should receive fair, appropriate and timely compensation n for the damages which they suffered. When compensation is not available from [...] the perpetrators, organizers and sponsors of terrorist acts, the state on the territory of which the terrorist act happened must contribute to the compensation of victims for direct physical or psychological harm, irrespective of their nationality*".

Herewith, it was recognized that the suffering of victims of terrorist acts deserves national and international solidarity and support. The guidelines underline the states' obligation to take the measures needed to protect the fundamental rights of everyone within their jurisdiction against terrorist violence, in particular the right to life and thus refers also to the European Convention on Human Rights as well as to decisions of the European Court of Hyman Rights holding that states are under a strict duty to implement policies devised to provide for effective protection of human life. States

should ensure that persons who have suffered physical or psychological harm as a result of terrorist violence, including under certain circumstances close relatives, can benefit from the services and measures prescribed by these guidelines.

The Italian Case

Italy has had special provisions for the compensation of victims of terrorism for several decades. In 1990, a special compensation program for victims of terrorism and organized crime was established by Act no. 302 (“Norme a favore della vittime del terrorismo e della criminalità organizzata”) through which earlier decrees and laws issued in the ‘70s and ‘80s were amended and partly replaced. In 1998 and 2000, further provisions were introduced and compensation covered personal injuries leading to disability that reduces the capacity to work by at least 25% and support for dependents, in case the violent act has resulted in the death of the victim.

In 2004, state compensation practice was significantly extended with special regard given to victims of terrorism and related assassinating acts by Act no. 206 (“Nuove norme in favore della vittime del terrorismo e delle stragi di tale matrice”). Nowadays, any degree of disability whatsoever is sufficient for the award of a disability pension. Based on the principal according to which an annual pension of € 2,000 is granted per 1% of disability, victims can receive a maximum pension of € 200,000 per year, if the victim is disabled by 80% or more; if the victim dies, the pension is transferred to the relatives without any reduction. The relatives of the victim receive an additional personal subsidy of € 1,033 per month each. Should the victim die, the spouse and any descendent who has been living in the victim’s household get their additional subsidies for another 2 years. It has to be noted in this context that, according to the general principles, an additional 13th regular installment is being remitted per year. Furthermore, the pension is income tax-free for the victim, plus the pensions of the relatives are “tax-neutral”, i.e. not counted in the calculation of the individual tax rate according to the progressive income tax table.

According to the same underlying principle, victims of terrorism and their relatives are exempt from all major types of further taxes and fees. This includes all taxes for administrative acts (such as stamp duty and transaction tax) and fees for civil, administrative and criminal trials in the connection with matters resulting from the original injury. Moreover, medical care (including psychotherapy), medicine and other medical aid and instruments are free of charge.

The decision whether or not to provide compensation is prepared by a medical and a compensation committee and the final decision is made by the Ministry of the Interior. The decision has to be issued no later than 4 months after the application was made. Advance payments can be granted by the Compensation Committee and must not be paid back even if the compensation is ultimately not awarded.

Foreign nationals are also eligible for compensation in the case that the crime occurred inside Italian territory. Italian nationals may be compensated too for terrorist or organized crime acts that occurred outside the Italian territory. The extended provisions for victims of terrorism introduced by the 2004 Act, however, retrospectively apply only for those terrorist events abroad that took place after 1 January 2003 (which, incidentally, renders improvements non-applicable to victims of the 9/11 attacks of 2001). Terrorist events inside Italy are retrospectively included in the extended state compensation from 1961 onwards. Accordingly, earlier determined cases coming under this retrospective scope of application are subject to adjustment according to the new rules.

Italy provides for particular protection in cases of organized crime and measures amount to full blown witness protection programs. Though general victim support organizations do not exist on a national level, however, a range of local regional organizations provide for support and help for victims. A special association named "Associazione vittime del terrorismo" caters especially to caring for the interests of victims of terrorism. Apart from their role as political interest groups, such NGOs may join criminal proceedings in specific cases as civil parties or as simple participants.

Concluding Remarks

Italy (among other countries like France, Greece, Spain, Turkey and Russia) is one of the states that have enacted specific victim of terrorism legislation and specific programs. Such specific legislation is modeled on the precursor of compensating military and civil victims of violence and continuously refers to a structure of compensation, deriving from a statute that organizes support for losses caused by war.

Large scale terrorist violence and its consequences for victims in the last decades make for some lessons about the particulars that must be considered when discussing about how compensation of victims of terrorism should be regulated. What is non arguable is that the impact of terrorism creates a sense of vulnerability, trauma, disruption of everyday life, destruction of the future and financial problems not comparable to that of ordinary violence. The compensation and assistance of victims of terrorist acts must be dealt with by countries from a broad perspective including not only general victim related policies (for example compensation, restitution and the role of the victim in criminal proceedings), but also policies against terrorism, legal and political responses to situations of mass violence or war as well as racist or- more generally- hate violence.