



The place of victims in "exceptional" criminal proceedings: the investigation phase

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Information sheet no. 2: **Providing information to victims**

The last few decades have seen the judicial systems of European countries afford more and more recognition to victims and take more account of their rights. On 14 November 2012, the Official Journal of the European Union published [Directive 2012/29/EU](#) establishing minimum standards on the rights, support and protection of victims of crime. In so-called "mass" criminal proceedings, respect for victims' rights becomes more complex on account of the large number of victims, the multiplication of parties involved, and the complexity of the cases to be examined.

The aim of this practical information sheet, focused on the question of the providing information to the victims in "exceptional" criminal proceedings, is to set out a number of good practices that can be implemented to ensure that victims' rights are better respected during this investigation phase.

Challenges

- To provide victims with regular, relevant information;
- To communicate both individually and collectively;
- To set up communication and information systems suited to "exceptional" cases;
- To include foreign victims or those living abroad in the information system.

1. Informing victims of the opening of an investigation and their rights in connection with it

The first piece of information to be given to the victims concerns the opening of a police or judicial investigation and what rights they have in connection with it, in particular the right to join the criminal proceedings as a civil party. This evidence gathering phase of the investigation presupposes that the victims have been identified, which is not always the case in some so-called "exceptional" cases.

Challenges

- To guarantee the victims all receive the information on the opening of an investigation and their associated rights;
- To facilitate the formalities for the victims.

Good practices identified

1. The judges and prosecutors involved in the investigation have an obligation to inform the victims of the **opening of a police or judicial investigation**. Certain cases where the potential victims have only been partially identified will then require **specific arrangements for providing information**, via multiple media outlets or by setting up an **information one-stop shop** (see point 1, information sheet no. 1).
2. The **provision of information on their rights to victims** is often handled by different actors, such as the prosecutor's office or the investigating department or judge's office, victims' groups and victim support associations, the police, etc. Setting up a **dedicated website**, or systematically referring people to this site where one already exists, is a way of guaranteeing that the same level of information is provided to victims on their rights and that they have access to clear, verified information. **Group briefings** attended by judges and/or prosecutors and victims can also be organised for this purpose.
3. Systems can be set up to **facilitate the process of joining the proceedings as a civil party**, which among other things would make it easier to monitor and identify the victims concerned and limit the number of them joining the proceedings at a late stage. In addition to the setting up of **dedicated information portals** (such as the justice system users' portal set up in France by an Order of 21 October 2021 for civil proceedings), the **group briefings** mentioned above can also be an opportunity to register such joinders.

Good practices: FOCUS

- Effective communication via the multiple media outlets available;
- Multiple information channels on victims' rights;
- Systems to facilitate joining the proceedings as a civil party.

2. Multiple types of information to be provided to victims

The large number of victims and scale of the investigation must not affect the civil parties' fundamental right to be kept informed. This right to information concerns not only their individual case file but also procedural aspects and news of the progress of the investigations.

Challenges

- To ensure different types of information are provided in good time;
- To communicate regularly and in an appropriate way on the progress of the investigation whilst respecting the secrecy of the pre-trial investigation.

Good practices identified

4. As for more conventional cases, the victims in so-called "exceptional" cases must be able to count on receiving **individualised information** in good time, in particular but not only in connection with the expert witness evidence. Such individualised information requires the existence of **appropriate IT tools** (spreadsheets or special software) capable of allowing the monitoring and management of individual case files and providing prompt responses to victims' enquiries. This type of document, which should be available to judges, prosecutors, administrative staff and support workers, ideally should **be accessible to all the actors involved all the stages in the criminal proceedings** (police or judicial investigative staff, the prosecutor's office, the courts of the first instance and appeal court, etc.).
5. The burden of **servicing formal procedural documents may be alleviated** for certain acts, so as to facilitate the work of the justice services and avoid overburdening the victims with information that may be of little relevance or use. In certain public health cases for example, in practice it may not be necessary to inform every party of every new expert witness report in cases that can involve hundreds, even thousands of them (see information sheet no. 3).
6. Beyond just the provision of individual or procedural information, one of the central challenges relating to information for victims concerns the **investigation** itself. Apart from Belgium (see box a), many European States do not allow victims to consult the investigation file before the conclusion of the investigation. However, the participants emphasised that respect for the secrecy of the pre-trial investigation and the large number of victims must not be obstacles to the **regular provision of verified information on the progress of the investigations**, even if it may not appear to be particularly useful or decisive. This issue is even more crucial in cases which can sometimes involve the circulation of a great deal of fake news. Effective communication in the earliest stages of the investigation will lay the groundwork for a long-term **relationship of mutual trust** between the judicial institution and the victims.

(a) Victims' access to the case file during the investigation of the 22 March 2016 terror attacks in Belgium

The Belgian system allows victims to access the investigation file. This possibility was maintained in connection with the investigations into the terror attacks of 22 March 2016 which struck Zaventem airport and a metro train at Maelbeek station in Brussels.

This measure was supervised by the judicial victims' assistance system: a single officer acted as an intermediary to support the victims' who wished to obtain information from the judicial services concerned. A recurrent request was to access images from the video surveillance cameras, and this was authorised by the Belgian investigating judges. In these cases, criminal investigation officers from the police force worked to extract the images showing the victims concerned and to time stamp them before sharing them.

Individual viewing sessions allowed the victims that requested them to get a better understanding of the sequence of events, whether they were families wishing to see their family member again or direct victims whose memory of the event might be patchy.

A Belgian federal prosecutor explained that the possibility of viewing these images, along with the information provided at the briefings (see point 3.B) were perhaps factors that explained the low number of requests made by victims to access the investigation file in the end.

7. In addition to the judges and prosecutors involved in the investigation, communication with the victims may also involve the intervention of **experts specialised in certain fields**, especially at the briefings (see point 14). Some victims can in fact expect to be provided with very technical or medical information, in particular concerning the conditions of the deaths of their loved ones. These professionals are thus often better placed to answer these specific questions which do not always appear in the investigation file.
8. The communication on the progress of the investigation must be accompanied by efforts to **explain the technical and legal issues involved in the case**. This educational approach will, for example if charges are dropped or changed, allow a better understanding and acceptance by the victims.
9. **Victims who cannot or do not wish to join the proceedings as civil parties** must not be forgotten or excluded from such information giving. Although they do not have the same rights in terms of access to information in the investigation file, **one-off communications** informing them that the investigation is progressing can be envisaged. This will require the availability and keeping up to date of a list of victims (see point 11, information sheet no. 1).

Good practices: FOCUS

- Provision of individualised information using appropriate IT tools accessible to all those involved in all the stages in the criminal proceedings;
- Streamlining of the service of documents relating to procedural formalities;
- A relationship of trust with the victims facilitated by regular communication of information on the progress of the investigation;
- Expert witnesses involved in the provision of information;
- Efforts to educate victims on the technical and legal issues involved in the case;
- Appropriate information for victims who are not civil parties.

3. Innovative means of communication

"Exceptional" cases require innovation in terms of the procedure in order to guarantee effective communication with a large number of victims. Multiple channels can be envisaged to relay information, whether it involves individuals or technical systems, to serve as intermediaries. Information can also be transmitted collectively, by organising victims' meetings.

Challenges

- To ensure different types of information are provided in good time;
- To diversify the means of communication used to reach as many victims as possible and respond to their multiple expectations;
- To communicate regularly and in an appropriate way on the progress of the investigation whilst respecting the secrecy of the pre-trial investigation.

Good practices identified

A. Effective channels to communicate and relay information

10. Faced with the impossibility of informing each victim individually, **civil parties' lawyers are the first obvious channel for providing information**, especially concerning procedural matters. By means of agreements with the police or judicial investigation services, they can undertake to pass on the information received to their clients, thereby considerably reducing the need for official service of documents. **Victims' groups** can also provide valuable assistance in this respect, especially for victims who do not have their own lawyer.
11. Similarly, the **dematerialisation of notifications**, i.e. sending emails, is a way of lightening the administrative burden and reducing the operating costs of the justice service. Likewise, information on the investigation can be disseminated in **newsletters**. However, this type of communication excludes victims who do not have a computer, an internet connection or an email address.

12. The setting up of **websites, servers dedicated to the investigation or online magazines** is another example of the type of innovations possible in the provision of information to victims. Information on the investigation can be shared on these **secure spaces accessible only with access codes**, whilst respecting the secrecy of the pre-trial investigation.

B. Victim briefings

13. Although they are not generally provided for by the codes of procedure of European States, **group briefings** attended by several hundred victims were mentioned several times by the participants. This type of briefing has the advantage of creating a **direct relationship between the police or judicial investigation services and the victims**, without needing to go through the channels mentioned above. As well as allowing information to be shared, this type of meeting can also **give the investigation a more concrete embodiment** – a face - and contribute to establishing a relationship of mutual trust between victims and the legal system.
14. These briefings can be an opportunity to present **different professionals who are involved in the investigation**, whether members of the judicial investigation and police services or expert witnesses specialising in DNA, firearms, etc. They can not only **provide specific information** or clarify technical issues in response to victims' questions (see box b), but also communicate on the **timing of their work**.

(b) Victim briefings in the Dutch and Belgian investigations of the MH17 crash and the 22 March 2016 terror attacks.

In the Netherlands, at the first briefing held for victims a video was shown reconstituting the type of explosion caused by the missile identified by the expert witnesses as having caused the plane crash. By showing this video before it was shown at the trial, the objective was mainly to allay the fears of the victims' families concerning the final moments of their loved ones.

In Belgium, the first victims' briefing, organised 7 months after the terrorist attack at the Royal Military Academy, was intended to shed light on what happened on 22 March 2016. Victims could ask questions orally or in writing. The presence of numerous expert witnesses - forensic scientists and pathologists, army doctors, bomb disposal experts, etc. – allowed answers to be given some very technical and often terrible questions asked by the victims.

15. Group briefings can be **very emotionally intense** events, while at the same time they can, thanks to the presence of the expert witnesses, help to **channel** the process of answering victims' questions. **Psychological support services**, especially those provided by victim support associations, must be present.
16. To guarantee the **secrecy of the pre-trial investigation**, this type of initiative must be accompanied by **strict control of who attends them**, using pre-prepared attendance lists to be signed on arrival at the meeting. Access must be barred to journalists.
17. The **defence lawyers** must be invited to attend, in line with the presumption of innocence.

Good practices: FOCUS

- Civil parties' lawyers and victims' groups committed to their role as intermediaries;
- Dematerialisation of notifications by sending emails;
- Secure online spaces dedicated to communicating on the progress of the investigation;
- Group briefings to communicate on the investigation and give it a face;
- Expert witnesses brought in to provide technical information;
- Psychological support services present;
- Controlled access to guarantee the secrecy of the pre-trial investigation;
- Presumption of innocence guaranteed by the present of the defence lawyers.

4. Informing foreign victims or nationals who live abroad

So-called "exceptional" cases very often involve foreign victims or nationals who live abroad, who also need to be included in the information and communication processes.

Challenges

- To guarantee foreign victims and those living abroad are kept informed.

Good practices identified

18. The justice system in the investigating country works in cooperation with the liaison services of the foreign countries concerned. The **justice attachés** responsible for such liaison work are in charge of organising **group or individual briefings** for the victims in the country they are assigned to, including a presentation of the judicial system of the investigating country.
19. To guarantee the dissemination of digital information, the **email addresses** of foreign victims or those living abroad are collected, for example **through the network of embassies**.
20. **Letters sent** through the post or by email are **translated** first.

Good practices: FOCUS

- Individual or group information sessions organised by the liaison services;
- Email addresses collected for the transmission of digital information;
- Translated letters.

Useful resources:

- [European Directive 2012/29](#)
- Practical information sheet no. 12 of [Report on support for victims of mass accidents](#)

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