



The Place of Victims in "Exceptional" Criminal Proceedings: The Trial

Pauline Jarroux,

PhD in social anthropology, researcher at the Institute of Social Sciences in Politics (*Institut des sciences sociales du politique*, UMR CNRS/University Paris Nanterre)

The last few decades have seen the judicial systems of European countries afford increasing 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 "exceptional" criminal proceedings, the trial phase poses numerous challenges in terms of respecting victims' rights, which have to be balanced with wider organisational and logistical aspects inherent in the "exceptional" nature of the trial.

This **handbook** intended for European law and justice professionals aims to propose a set of good practices that can be implemented before and during "exceptional" trials. These good practices concern both the organisation and the coordination between parties involved, as well as the more technical aspects that the different working groups set up for occasion will have to deal with.

The aim of this **handbook** is to support the courts with the organisation of such trials to ensure that they are run efficiently in a joined-up way consistent with the Victims Directive in European Union countries.

Challenges

- To identify the challenges of an exceptional trial, particularly as regards victims' rights.
- To get a good grasp of the organisational effort necessary to the preparation of an exceptional trial and the arrangements needed to allow a dialogue between those involved.
- To plan all the material, logistical, human and organisational aspects to be taken into account.
- To anticipate, prevent and deal with any unexpected events or incidents that occur during the trial.

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1. The challenges of exceptional trials: identify the issues to anticipate them more effectively

In recent years, many European Union countries have been confronted with acts of terrorism, public health and environmental crimes, mass casualty accidents, etc. which have had profound impacts on their societies. The judicial treatment of these crimes involving very large numbers of victims obliges the institutions to adapt their procedures and organisation to ensure the trials are run as smoothly and effectively as possible and guarantee that the rights of every victim are respected, whilst taking care to limit the impacts on the normal functioning of the courts.

Although there is no actual definition of what constitutes an exceptional trial, it is characterised by a certain number of criteria which can help the courts to anticipate the organisation of such trials more effectively.

Challenges

- To identify in advance that a trial is potentially an "exceptional" trial.
- To anticipate the main challenges posed by its organisation more effectively.

A. What is an "exceptional" trial?

The criteria listed below may not all be met in every case, of course. However, it is when several of these aspects come together that the forthcoming trial is likely to qualify as an "exceptional" trial. These criteria can be identified well ahead of the trial, and in particular during the investigation or examination/case preparation phases, and sometimes as soon as the crime is committed or the offences discovered, thereby allowing the organisation to be better anticipated.

- A large number of parties:
 - defendants and/or
 - victims and/or
 - civil parties.
- Profile:
 - of the defendant(s) (dangerousness, possible social aura if the defendant is a well-known public figure or a legal person with a prominent media presence, etc.) and/or,
 - of the victims (public figures, involvement of children and teenagers, etc.). Complexification with multiple nationalities among the victims.
- The complexity of the case, assessed with regard to:
 - the circumstances in which the offences were committed,
 - a potential transnational dimension,
 - the complexity of the technical investigations or expert assessments to be carried out.
- A high level of media coverage:
 - before the trial and/or
 - during the hearings,
- The specific organisation imposed by the holding of the trial, in particular in terms of facilities and furniture and equipment.
- The exceptional risks of damage to property and harm to persons or the judicial institution.

- The length of the trial, which can be expected to be considerable given the complexity of the case and the large number of defendants and/or victims.
- The impossibility for the court of integrating the trial into the normal flow of its activities.

B. What challenges are raised by the organisation of an exceptional trial?

The criteria listed below implicitly allow the identification of the main challenges that will need to be anticipated in order to ensure optimum organisation of an "exceptional" trial and guarantee full respect for victims' rights. Later in this **handbook** a series of practical information sheets deals with each of these challenges. They may vary of course, according to the specific characteristics or nature of the trial being prepared.

Challenges

- **Logistical challenge:** this challenge encompasses all the material and logistical issues raised by this type of trial. It is necessary to anticipate it well ahead of the trial, in particular with regard to its implications for the timing and cost of the trial. This challenge can be broken down into three priority work components:
 - facilities,
 - health and safety/security,
 - equipment.
- **Communication and victim support challenge:** this challenge concentrates the issues related to the management of the media, the provision of information and victim follow-up. Some of the aspects covered by these challenges must be anticipated in advance, in particular those concerning relations with the victims and civil parties. Two main components can be identified:
 - press and communication,
 - victim support.
- **Proceedings, hearing and court life challenge:** this final challenge is about ensuring the smooth running of the trial from a procedural point of view, whilst limiting the impacts on the court's routine activities. Once again, some aspects will have to be largely anticipated, to ensure the exceptional trial can be accommodated alongside the other more routine cases handled by the court. This challenge can be broken down into two work components:
 - proceedings and hearing management,
 - court life.

Each work component will need to work in close collaboration with the others identified to manage shared challenges. It will also, depending on the situations and challenges concerned, involve coordinating activities with the other work components. In any case, each work component must be kept informed of the operations carried out by the other groups. To ensure each of these challenges is efficiently managed and coordinated, it will be necessary to set up a specific organisational structure.

2. The organisational structure, linchpin of the preparation of an exceptional trial

The diversity and complexity of the challenges posed by the organisation of an exceptional trial require the setting up of a specific organisational structure. This structure will make it possible both to guarantee effective, consistent management of each of the challenges identified and to provide steering and coordination of the operations. This structure must be set up as early as possible, as soon as it is certain that there will be a trial.

Challenges

- To guarantee the steering and coordination of operations.
- To ensure every challenge identified is dealt with and followed up effectively.

A. The trial coordinator

Given the diversity of the challenges and actors involved in the organisational work, it is necessary to appoint a single coordinator for the trial. Although they will not strictly speaking be involved in the operational work itself, they will guarantee the good coordination of the different activities and serve as the official representative of the organisational structure. They will also be in direct and regular contact with the central services of the country's ministry of justice.

Coordinator's duties

The coordinator is responsible for:

- having an overview of the tasks to be done,
- monitoring operations,
- circulating information,
- chairing steering committee meetings,
- attending the meetings of the working groups and coordinating their work,
- drafting the minutes of the meetings,
- representing the organisational structure with the outside world (politicians and government officials, the media, etc.).

Coordinator profile

The coordinator is appointed by the heads of courts, and preferably will be one of the judges or prosecutors (one of the general secretaries of the court, for example, for the organisation of the 13 November 2015 terrorist attack trial) or one of the head clerks.

B. The steering committee

As the name suggests, the steering committee is responsible for steering the organisation of the trial, that is to say it will be involved in planning and providing general guidance.

Duties of the steering committee

The steering committee is specifically responsible for:

- setting up the organisational structure,
- deciding the different working groups needed, appointing each of the group leaders and identifying the main challenges they will have to deal with,
- establishing a general timetable that will be common to all the work components,
- deciding what human and material resources are needed, and also, where applicable, the needs in terms of facilities,
- keeping provisional lists of expenses and managing the budget,
- validating the broad outline of the organisation of the trial,
- ensuring there is good coordination between the working groups,
- monitoring operations.

Organisation of the work within the steering committee

The committee operates on the basis of plenary meetings organised regularly over the course of the months/years running up to the trial, and will continue to meet during the trial (see point 4). It will also need to meet before each major milestone or deadline to review how the operations are progressing, check that deadlines are being met, etc. Minutes are kept of all the steering committee meetings and sent to the leader of each of the working groups, and in some cases also to decision-making ministerial or administrative authorities or supervisory bodies). At regular intervals, the steering committee invites the rapporteurs of each working group (see below) to assess the actions undertaken at their level and report any difficulties encountered.

Composition of the steering committee

The committee must involve all the people concerned by the preparation of the trial. Depending on the national organisation of the judicial system, the committee could be made up of the following:

- the heads of the relevant higher courts (appeal court, supreme court),
- the heads of the courts seised with the offence (President and Public Prosecutor),
- the judge presiding over the trial (if one has been appointed),
- the trial coordinator,
- a representative of the court's IT department,
- a representative of the lawyers,
- a representative of the court registry,
- a representative of the victim support association(s) approved or brought in by the prosecutor's office,

Depending on certain specific aspects covered during a meeting, the committee may also from time to time call upon the services of "resource persons" to represent, in particular:

- the law enforcement agencies,
- the emergency services;
- the local political and/or administrative authorities (devolved and/or decentralised),
- victims' associations specifically set up.

The members of the steering committee must in any case be sufficiently representative to be able to make decisions and validate choices without them being challenged.

C. Working groups

The working groups are organised on the basis of the main challenges identified by the steering committee. The seven priority work components identified in point 1.2 may constitute an effective basis for sharing the tasks between different working groups, as described in point 3.

Identifying the working groups

Depending on national situations and the characteristics of the trial being prepared, the working groups may be formed as follows:

- a facilities working group, which will deal with the aspects relating to the facilities (buildings, etc.) where the trial is to be organised,
- a furniture and equipment working group, responsible for all types of equipment (IT, electrical, etc.),
- a health and safety/security working group, responsible for the safety and security of people and the premises as well as for the health-related aspects,
- a press and communication working group, responsible for internal and external communication and managing relations with the media,
- a victim support working group, which will deal with all the aspects relating to the care of victims and respecting victims' rights, both before and during the trial,
- a proceedings and hearing management working group, which will oversee all the aspects related to the proceedings and the organisation of the trial hearings,
- a "court life" working group, which will deal with the organisation of the court during the period when the trial is taking place, to ensure the continuity of normal court activities.

Organisation of the work within the groups

The working groups must be set up as quickly as possible, as soon as it is announced that there will be a trial, in order to guarantee optimum organisation of that trial and prevent any unforeseen events and unexpected deadlines. The tasks to be done are distributed between the members of each group, who work autonomously, but in coordination with the rest of the team. Each group will hold plenary meetings, ideally at regular intervals planned in advance, to review the progress of the operations and any difficulties to be resolved. The trial coordinator takes part in all of them. Minutes are drawn up of the meetings and sent to the other working groups, as well as to the steering committee.

The duties assigned to each working group and their composition are described in the next point.

3. Operations and planning of activities by working group

The purpose of this point 3 is to propose, for each of the working groups organised on the basis of the priority aspects listed in point 1.2, a memento of the activities to be carried out to prepare the holding of an exceptional trial as well as possible.

A. Facilities component

The facilities where the trial will take constitute an essential parameter in the smooth running of an exceptional trial. This aspect needs to be dealt with long before the trial hearings, as soon as the trial is announced. Indeed, it can have significant financial implications and partly depend on the time needed to organise the public procurement process, for example.

Challenge

To organise the holding of the trial in facilities suited to the needs identified.

1. **Composition of the facilities working group.**

Depending on the national contexts and situations, the working group may be made up of:

- a representative of the heads of courts,
- a judge or prosecutor delegated to be responsible for infrastructure,
- a representative of the decentralised infrastructure department,
- a representative of the court's buildings technicians,
- the trial coordinator.

One of these members is appointed rapporteur of the facilities working group.

2. **Defining the needs of the trial in terms of the building.**

The needs in terms of facilities will be determined based on:

- An assessment of the capacity needed for the trial, in light of the number of people potentially taking part in the trial (public, victims, defendants, press, judges and prosecutors, lawyers, court clerks, law enforcement agencies, interpreters, witnesses, experts, associations, legal representatives) and any specific requirements they may have or impose (particularly dangerous defendants, large numbers of victims with mobility difficulties, etc.).
- The taking into account of the security imperatives and the movements of the parties involved in such a trial.
- An assessment of the need to adapt the layout or fixtures of existing spaces to host the trial, or the choice of new constructions or relocation to more suitable premises.

(a) Choosing where to hold the trial: French and Belgian examples

The organisation of the 13 November 2015 Paris terrorist attacks posed considerable challenges in terms of the facilities. By the time the trial, which was already qualified as "exceptional", began, approximately 1,800 civil parties had joined the proceedings. No court building was large enough to accommodate so many victims, defendants, lawyers and journalists. The idea of holding the trial in a large theatre or auditorium was rejected, in particular because one of the scenes of the terrorist attacks, the Bataclan, was itself a concert hall. Finally, it was decided to build a new courtroom of the size needed on the site of the historic Paris courthouse. The building work, which took 18 months and cost 8 million euros, was undertaken by the public justice system property agency (*Agence publique pour l'immobilier de la Justice*, APIJ). This project is considered a success, its layout being functional, aesthetic and secure, but also a success from a symbolic point of view: situated in the heart of Paris, the city wounded by the terrorist attacks, and on a site historically connected with justice.

In Belgium, other choices guided the organisers of the 22 March 2016 terrorist attacks trial. It was first and foremost the security and functional (capacity) challenges that led to the decision to relocate the trial to the former NATO headquarters on the outskirts of Brussels. The aesthetic, symbolic and solemn aspects played a secondary role in the choice of the venue: the huge building has few windows and is situated in an area that is relatively difficult to access.

3. Planning the operations to be conducted

As soon as the trial is announced:

- Start reflecting on the venue for the trial, taking account of the capacity issue and the security aspects.
- If it is decided to move the trial out of the normal courthouse to another building, attention should be paid to less material aspects such as symbolic value of the venue identified (see box a).
- If it is decided to build one or more new courtrooms for the trial hearings, it will be necessary to decide whether they are to be permanent or temporary and to waste no time in starting the process of consulting contractors – in particular with the implementation of a public procurement procedure – and seeking the necessary permits and authorisations.

About 18 months before the trial is due to begin:

- Start the construction or conversion work on the courtroom.
- Start the construction or conversion work on the side rooms (overflow rooms for streaming the hearings to the public and the press, rest room for the lawyers, individual holding cells for the defendants, waiting room for the witnesses and expert witnesses, toilets, first aid station or sick room, possibly a control or technical room for the video and/or sound recording system, etc.).
- Start any adaptations of the premises to allow for the internal circulation of the parties involved (internal circuit for law professionals, route between the holding cells and the courtroom, entrance and circuit dedicated to accredited staff, etc.).
- Ensure the courtrooms and other rooms have disabled access.

About 6 months before the trial is due to begin:

- Guarantee that the construction or conversion work is finished and accepted, identify any snags and ensure they are resolved.

B. Health and safety/security component

Given the large number of persons expected to take part in the trial, and the specific security challenges posed by such events, this health and safety/security component is essential to the organisation of any "exceptional" trial. One of the difficulties lies in particular in the balance to be found between the security arrangements and the comfort and rights of the parties in the trial (see box b).

Challenge

To guarantee optimum health and safety/security conditions throughout the trial.

1. **Composition of the health and safety working group.**

Depending on the national contexts and situations, the working group may be made up of:

- a representative of the heads of courts,
- a judge or prosecutor delegated to be responsible for security,
- a representative of the police and/or gendarmerie,
- a representative of the prison service,
- the trial coordinator.

One of the members is appointed coordinator of the health and safety working group.

2. **Defining the needs of the trial in terms of health and safety/security.**

The needs in terms of health and safety/security will be determined based on:

- The requirements of the fire safety specifications.
- The specific requirements relating to the security of the premises (courthouse, courtrooms and overflow live streaming rooms, holding cells, dock etc.), people (justice professionals, defendants – in particular those not in custody, civil parties, experts and witnesses, public, etc.) and routine events (hearings, transfers, arrivals and departures of defendants not held in custody, etc.).
- The assessment of the needs for equipment to guarantee the hygiene and cleanliness of the facilities.
- The assessment of the need for equipment to guarantee safety and the medical care of those taking part in the trial.

(b) Victims' rights versus defendants' rights: the difficulty of finding a balance in the security system

In such trials, the security arrangements may sometimes interfere with the comfort of the civil party victims, or even be considered as infringing the rights and dignity of the defendants.

During the January 2015 Paris attack trial, several civil parties expressed their unease at seeing armed and sometimes hooded men in the courtroom, as the perpetrators of the attacks were wearing relatively similar clothes when they committed the crimes. After similar feedback from civil parties participating in a dry

run of the November 2015 attack trial, the gendarmerie agreed to put its officers in sky blue rather than midnight blue uniforms. Measures were also taken to make long guns less visible inside the court building, consisting in particular of asking law enforcement officers to carry and handle their guns discreetly.

On another level, the 22 March 2016 Brussels terrorist attack trial was postponed for several weeks so that the dock could be altered, mainly because the glass wall prevented the defendants from communicating with their lawyers. After a request by the defence lawyers, the president of the assizes court ruled that the glass cubicles breached Article 6 of the European Convention on Human Rights and they were replaced.

The dry runs organised several weeks before the start of the trial are opportunities to identify such challenges and to deal with any issues before the trial hearings begin.

3. Planning the operations to be carried out.

As soon as the trial is announced/the choice of the trial venue has been made

- Start the work of identifying the needs in terms of health and safety/security, depending on the venue chosen for the trial and its characteristics.
- Start the work of assessing the needs in terms of staff and equipment to ensure the safety/security and hygiene of the premises and people.
- Work out a circulation plan for the different parties involved in the trial, and work with the facilities group to identify any modifications that need to be made (such as adding an emergency exit or blocking off a corridor, but also any changes that may be necessary to the regulation of the flows of people to guarantee security: provide a specific entrance for accredited persons, different circuits for the arrival and movements defendants not in custody, etc.).

Between 6 and 12 months before the trial is due to begin

- Formalise any agreements or recruitment needed to ensure the daily presence of **health professionals** (nurses or doctors) for the duration of the trial.
- Formalise any agreements or recruitment needed to ensure the presence of enough law enforcement personnel (inside and outside the courthouse) and fire brigade personnel for the duration of the trial.
- Formalise any agreements or recruitment needed to ensure the presence of enough maintenance and cleaning staff (inside and outside courthouse) for the duration of the trial.
- Formalise the arrangements for moving defendants who are in custody to and from the courthouse with the prisons concerned.
- Identify the needs expressed by the law professionals, by any members of the jury or by certain victims and witnesses in terms of personalised protection measures.

About 6 months before the trial is due to begin

- Formalise the arrangements for securing the area around the courthouse (positioning of security personnel and patrols outside the court, potential road closures or restrictions on traffic, closure of certain premises or buildings in the vicinity, etc.).
- Draw up the timetables and circulation plans for the law enforcement personnel inside the courthouse as well as the staff in charge of cleaning and opening and closing the rooms (courtroom, live streaming room, side rooms, etc.).

- Ensure measures are taken to ensure the security of the holding cells, the dock in the courtroom, the circuits for moving the defendants who are held in custody around the courthouse.
- Check the courtroom and side rooms are correctly ventilated, provide heating and/or air conditioning equipment, as required.
- Centralise the list of accredited persons and prepare the issuing of badges (for the media, civil parties, etc.).
- Ensure that the fire safety system, emergency exits, fire extinguishers, smoke detectors are all in good working order
- Ensure that the toilets are in good working order, that the sick room is adequate; if necessary install extra litter bins, water dispensers, etc.
- Install adequate signage (courtroom, emergency exits, toilets, etc.).
- Install the security equipment for the entrances (walk-through security scanner, etc.).
- Draw up a shared directory of all the relevant interlocutors (law enforcement command, maintenance, emergency services, lawyers, press, interpreters, foreign authorities).
- Decide the maximum numbers of people that can be accommodated in each of the rooms (courtroom and live streaming room), which must then be provided to the security staff posted at the entrances.
- Plan evacuation drills for the courtroom and courthouse before the beginning of the trial.
- Organise a dry run with the professionals and other people involved in organising the trial, to test the operationality of the arrangements and see how they cope with practical situations (refusal to allow bag checks, use of mobile phones in the courtroom, etc.) determined in advance by means of organised role plays.
- Draw up an access plan (including public and private means of transport, parking facilities, restricted access, etc.). This plan is intended to be circulated to all those involved in the trial by the communication component).

C. Equipment component

This component plays a central role, given the considerable and foreseeable need for various types of equipment required to hold an exceptional trial. As a result it will need to work closely with the members of the other working groups.

Challenge

To ensure optimum coverage of the needs in terms of equipment and furniture of all kinds needed for the trial to run smoothly

1. Composition of the equipment working group.

Depending on the national contexts and situations, the working group may be made up of:

- a representative of the heads of courts,
- a judge or prosecutor delegated to be responsible for infrastructure,
- a representative of the decentralised infrastructure department,
- a representative of the court's buildings technical department,
- the trial coordinator.

One of the members is appointed coordinator of the equipment working group.

2. Defining the needs of the trial in terms of equipment and furniture.

Equipment and furniture needs will be determined is based on:

- An assessment of the needs for furniture in the courtroom, the live streaming rooms and the side rooms (rest room for the civil parties, rooms for lawyers, judges and prosecutors, etc.), taking account of its size, functionality and aesthetic qualities (see box c).
- The identification of the specific needs for various types of electronic equipment (IT, network access, sound system, video links, sound and video recording, WiFi, etc.).
- The identification of the needs for security equipment to secure the inside of the courthouse (walk-through security scanner, metal and explosives detectors, access badge readers).

(c) Comfort and aesthetics-related dimensions that should not be neglected

Although the need for the furniture chosen to be functional may seem obvious, the aesthetic aspect should nevertheless not be neglected, bearing in mind what it is to be used for. For example, the rest room for victims must contain enough furniture to guarantee the comfort of its future users (provide not just chairs, but also sofas and armchairs, etc.). Ideally this room should have windows. The aesthetic dimension of the rest room must also be anticipated, to ensure the room is pleasant to be in, a place conducive to relaxation. It was with this in mind that the rest room provided for the civil parties at the 22 March 2016 Brussels terrorist attack trial was equipped with decorative items and plants.

3. Planning the operations to be carried out.

As soon as the trial is announced

- Depending on the national situations, the trial may be subject to specific sound or video recording measures, for archiving purposes or live streaming (video and/or audio). In these cases, the equipment working group must participate in the reflection conducted by the facilities working group so that the planned construction or conversion work takes account of need to integrate the technical installations and equipment for the video and/or sound recording of the court hearings.

Between 6 and 12 months before the trial is due to begin

- Plan the needs in terms of furniture for the courtroom and the live streaming rooms (exhibit table, chairs, tables, benches, etc.) as well as for the rest rooms provided for the civil parties, lawyers, etc. (sofas, water dispensers, amenities for refreshments, tables and chairs, decorative items) and decide whether the court should purchase or rent the equipment.
- Plan the needs in terms of furniture and equipment for courthouse to ensure all the parties involved in the trial - justice professionals, civil parties, public, etc. – have the amenities they need (benches, water dispensers, refreshments, electric sockets, etc.) and decide whether the court should purchase or rent the equipment.
- Plan the needs in terms of security equipment (walk-through security scanners, hand-held metal detectors, accreditation badges, etc.) and decide whether the court should purchase or rent the equipment.
- Plan the needs in terms of electronic and IT equipment for the live streaming of the court hearings in the overflow rooms.
- Plan the needs in terms of electronic and IT equipment for the organisation of video links and, where applicable, video and/or sound recording and decide whether the court should purchase or rent the equipment. Plan the needs for qualified human resources to manage the flows of people.

- Plan the needs in terms of equipment to ensure the effective conduct of the court hearings and the comfort of the different parties in the courtroom (microphones, projector and screen, live streaming screens, electric sockets, coloured lanyards for accreditation badges, etc.) and decide whether the court should purchase or rent the equipment.
- Provide support for the public procurement process if the equipment and furniture identified as necessary is to be bought in.

6 months before the trial is due to begin

- Purchase or rent the furniture and equipment listed above.
- Start installing the furniture and equipment.
- Carry out the first tests to check the IT and electrical equipment and sound system are working correctly.
- Install the WiFi router in the courtroom, the side rooms and, if necessary, throughout the courthouse.
- Make sure that at least one technician (seconded or recruited specially) dedicated to the trial will be present every day for the duration of the trial.

D. Press and communication component

The considerable media coverage of the trial that can be expected is, as we have seen, one of the characteristics that determines the "exceptional" nature of the forthcoming trial. Accordingly, the challenges relating to the press and the communication of information about the trial are a core issue.

Challenges

- To guarantee appropriate communication to all the parties in the trial and the outside world
- To guarantee efficient management of press and media relations.

1. Composition of the press and communication working group.

Depending on the national contexts and situations, the working group may be made up of:

- a representative of the heads of courts,
- a judge or prosecutor delegated to be responsible for communication,
- a communication professional, either recruited internally or hired as a service provider,
- a representative of the national, local or legal press,
- the trial coordinator.

One of the members is appointed coordinator of the press and communication working group.

2. Defining the needs of the trial in terms of the communication and the press.

The needs in terms of communication and press relations will be determined based on:

- The identification of the type of information to be communicated internally and to the outside world.
- The identification of the type of parties to whom the information will be provided.
- The determination of the preferred means of communication.
- The determination of the resources to be provided to ensure the press can work under satisfactory conditions.
- The determination of the conditions of supervision and management of journalists' professional activities in order to ensure the conduct of the trial is not hindered.

3. Planning the operations to be carried out.

As soon as the trial is announced and over the following months

- Draw up an internal and external communication plan that guarantees the provision of clear information at regular intervals to all the parties identified.
- Set up a structural contact email and electronic message box as well as a single telephone number to handle questions and requests for information from the public, the outside world and the press.
- Appoint one member of the working group to be specifically responsible for staying in touch with the press and the media and to be in charge of media monitoring.
- Appoint one member of the working group to be specifically responsible for monitoring communications with the outside world.
- Appoint one member of the working group to be specifically responsible for monitoring communications with the parties involved in the trial.

Between 6 and 12 months before the trial is due to begin

- Start the accreditation procedure and inform the press and the victims.
- Identify the spaces that will be set aside for the press (live streaming room, a work room, a space for taking photos, video and sound recordings) and check that they are properly fitted out (electric sockets, furniture, cord barriers for cordoning off certain areas, etc.).

6 months before the trial is due to begin

- Send the provisional schedule for the court hearings to all the parties involved.
- Install a functioning reception and information desk before the trial begins.
- Draw up a first list of accredited people to provide to the security staff manning the entrances.
- Draw up a press information pack, including in particular information relatives on the rules and "code of conduct" applicable to the media, as well as details of the spaces set aside for their use (see box d).
- If appropriate, schedule a session to present the venue and amenities to the media.

(d) The media and press management arrangements at the November 2015 Paris terrorist attack trial

For this highly anticipated trial, over 140 different media organisations were accredited, with several journalists sometimes accredited for the same organisation. Different types of accreditation badges were issued: nominative badges and non-nominative badges that can be used by different members of the same new organisation. To enter the secure trial space it was necessary to present the badge and a professional press card. Inside the courtroom, 24 seats were reserved for the press for the entire trial (with "press" signs on the back of the benches), and more were allowed in on days when there were fewer civil parties present. Eight more places (chairs and tablets) were provided in the courtroom for press sketch artists. To manage the large numbers of people present for the beginning of the trial, a system of drawing lots for admission to the courtroom was set up on the first two days (with 1 rotation per day). Afterwards, places were allocated on a first come first served basis. At the same time, the trial hearings were live streamed to a specifically dedicated room opposite the courtroom. Three different live streams of the proceedings were transmitted at the same time: one stream prioritising the filming of the persons speaking (this stream would be kept as the archived version of the trial),

a stream focused on the dock and the defence lawyers, and a final stream showing the civil party lawyers' benches and the public prosecutor. The press were also provided with a dedicated work room with space for about twenty people inside the courthouse.

In the large space outside the courtroom, an area was cordoned off for the installation of cameras and for photo/video shoots and sound recording, in order to guarantee ease of circulation and quiet in the area immediately outside the courtroom.

Finally, and based on the successful experience of the Anders Breivik trial in Norway, the organisers provided the civil parties with two cords, a red one and a green one, so that they could visually indicate to the press whether or not they were available to talk to them.

E. Victim support component

An exceptional trial can involve very large numbers of victims, often with specific needs to which the judicial institution must pay close attention. The other working groups will need, more or less directly, to take account of the victims and their rights in the work they do organising the trial (with the facilities and furniture and equipment, health and safety/security challenges or questions relating to the management of the trial hearings or interactions with the press). However, it is also necessary to set up a specific working group on victim support, so as to guarantee continuity and responsiveness in dealing with them, and centralise all the challenges linked to respecting their rights. This group will need to work closely with the victim support association(s) approved by the judicial authorities.

Challenge

To provide practical, logistical and psychological support to victims during the trial organisation phase and during the trial itself.

1. **Composition of the victim support working group.**

Depending on the national contexts and situations, the working group may be made up of:

- a representative of the heads of courts,
- a judge or prosecutor delegated to be responsible for victims or the associations,
- a representative of the civil parties' lawyers,
- a representative of the victim support association(s) approved or brought in,
- the trial coordinator.

One of the members is appointed coordinator of the victim support working group.

2. **Defining the needs of the trial in terms of victim support measures.**

The needs in terms of victim support will be determined based on:

- The identification of main victims' rights to be taken into account and the specific measures they imply (right to information, to attend the trial, to translation and interpreting, etc. – see point 5 summarising the Victims Directive).
- The determination of the needs in terms of personnel (reception and information, psychological support, etc.) to ensure the measures identified are properly implemented.

- The determination of the number of victims potentially attending the trial and any specific characteristics of those victims (child victims, foreign victims or living abroad, victims with mobility issues, etc.).

3. Planning the operations to be carried out.

As soon as the trial is announced and over the following months

- Define the main steps in the provision of information to victims up to the start of the trial.
- Set up a structural contact email and electronic message box as well as a single telephone number to handle questions and requests for information from victims.
- Draw up and keep up to date a first table containing details of the victims who have joined the proceedings as civil parties, a list of the procedural information available concerning them (whether or not assisted by a lawyer, seeking reimbursement of the expense incurred to come to the trial, etc.) and the information already provided and to be provided.
- Make any proposal for technical measures to be taken to ensure access to the trial hearings for civil parties living elsewhere and/or abroad, and/or who are unable to attend the entire trial due to its length (video broadcasting of the trial hearings, secure or otherwise, web radio, etc.).
- Set up a formal framework for the exchanges and cooperation with the approved victim support association(s).

Between 6 and 12 months before the trial is due to begin

- Draw up and keep a list of the civil parties up to date and ensure it is passed on to the security, equipment and proceedings groups.
- Draw up information sheets for the victims and lawyers detailing their rights as well as the formalities they have to complete and a schedule of relevant events in view of the forthcoming trial. Have these information sheets translated for the foreign victims, and add an explanatory note on the national judicial system.
- Draw up and send a questionnaire to the victims to get a first idea of the number of people likely to attend and any specific needs.
- Start the job of listing the requests for testimony and keep a schedule of the witness appearances up to date (to be provided to the proceedings component). Anticipate the specific needs related to witness appearances: video links for victims living abroad, possible presence of a courthouse facility dog for child victims, etc. Draw up an information sheet on what happens when witnesses give their testimony so that victims know the rules in advance (how to address the court, the possibility of having their testimony read out by a third party or submitting their testimony in writing, etc.) and any ad hoc measures that are decided (for example, limitations on the time allowed for giving evidence, see box e).

6 months before the trial is due to begin

- Formalise, with the approved victim support associations, the support measures to be offered to the victims depending on which of several configurations applies (following the trial in the courtroom or in a side room, following it remotely via live streaming, possibility of being supported after giving evidence in the court or remotely, etc.): presence of support staff in the courtroom and in any side rooms, setting up of a dedicated phone line, etc.
- Start the process of recruiting the victim support staff needed.
- Draw up the claim forms for victims attending the trial and make sure claims are processed quickly as soon as the trial begins.
- Draw up and send out an information sheet for victims explaining what will happen (trial hearings, security, etc.) and the aspects that concern them (how to pick up their badges, the different coloured cord system for their interactions with the press, seats reserved for

them in courtroom and the side rooms, reimbursement of expenses, etc.). Make sure the information sheet is translated for foreign victims.

- Organise visits of the trial venue and the amenities provided for the victims and their families a few weeks before the trial.
- Make sure the rest room for the victims has been set up.

(e) Managing victims' testimony at the MH17 crash trial

The 2014 MH17 plane crash trial opened in the Netherlands in March 2020. Out of 298 people who died, almost 200 were Dutch. Particular attention was paid to the gathering of victims' testimony before and during the trial.

During the trial, the victims – families of the deceased – were able to make an oral or written statement to the court to talk about the consequences of the tragedy on their lives and those of other family members or to give their point of view on the case. In total, over 100 people were heard, either in person in court or via a video link, or had their testimony read out by their lawyer or by a member of the team supporting the victims. The written statements were added to the case file. For each victim who died, a maximum number of relatives who could give a victim statement was set. The length of each oral statement was also limited. There can be a therapeutic aspect to being able to speak at the trial, and some statements may be considered too long for the court, especially from the point of view of keeping to the trial schedule. If a decision is made to limit the length of oral testimony, the victims must be informed as soon as possible, as was the case for this trial. However, the victims were given the opportunity during the investigation to speak to one of the prosecutors in charge of the case, at interviews that lasted approximately an hour each.

F. Proceedings and hearing management component

The length of the trial, the large number of civil parties and their lawyers, the presence of foreign victims (or defendants), the large volume of the case file produced by the investigation etc. all constitute challenges affecting usual practices in the organisation of criminal proceedings or the management of trial hearings. The holding of an exceptional trial therefore means that challenges must be anticipated, and will sometimes require innovative initiatives, in particular with the aim of guaranteeing the conditions for a fair trial respectful of victims' rights and those of the defendants are met. In light of the challenges it faces and the responsibilities it has, this component will need to work very closely with the other working groups.

Challenges

- To guarantee optimum organisation of the proceedings and management of the hearings with regard to the imperative requirement to conduct a fair trial and to respect the rights of the parties.
- To work on the flexibility of the set-up in order to be able to cope as well as possible with any unexpected difficulties.

1. Composition of the proceedings and hearing management working group.

Depending on the national contexts and situations, the working group may be made up of:

- a representative of the heads of courts,

- the judge presiding over the trial,
- a representative of the Public Prosecutor's office,
- a representative of the defence lawyers,
- a representative of the civil parties' lawyers,
- the trial coordinator.

2. Defining the needs

The needs in terms of the proceedings and hearing management will be determined based on:

- The identification of the main procedural challenges posed by the organisation of the trial and the setting up of measures to facilitate their resolution (requests for mutual legal assistance to hear witnesses abroad, management of video links, interpreting, etc.).
- The identification of the main challenges relating to the organisation and management of the trial hearing and the setting up of measures to facilitate their resolution (provisional, adaptable schedule, choice of hours).
- The determination of the main tasks to be carried out and the needs for various personnel (judicial or para-judicial staff, staff dedicated to providing information to and supporting the justice professionals taking part in the trial, translators and interpreters, etc.).

3. Planning the operations to be carried out.

As soon as the trial is announced and over the following months

- To avoid any adjournments or suspension of the trial due to judges being unable to attend for any reason, make sure substitute judges are recruited long enough in advance for them to ensure they are familiar with the case file.
- Start the job of digitising the case file. Depending on its size and the resources required, it may be necessary to recruit staff specifically for this task and/or to acquire digitisation equipment.
- Set up a permanent communication system for the members of the court and the different legal auxiliaries.

Between 6 and 12 months before the trial is due to begin

- Draw up the timetable for sending out notifications, summons to appear, copies of documents, for the management of disputes, detention or court supervision orders and ensure the staff assigned to these tasks are available.
- With the court clerks' department draw up the standard templates for the letters to be sent out to the parties.

6 months before the trial is due to begin

- Depending on the needs, start recruiting translators and interpreters and check that the equipment is working (headsets and microphones).
- Depending on the needs, start recruiting the staff tasked with supporting the organisation of the trial hearings and supporting the parties (checking in lawyers, etc.).
- Draw up sheets listing the contact details and information of the justice professionals involved (court clerk, judges, prosecutors, lawyers), defendants, civil parties, expert witnesses, witnesses, legal representatives and interpreters, to facilitate contacts between them.
- With a view to formalising the timetable of court hearings, check the availability of the lawyers, witnesses and expert witnesses on the dates proposed for them to give evidence.

(f) A more flexible way of managing the hearings: example of the November 2015 terrorist attacks in France

For this large-scale trial, with approximately 1800 civil parties when it started and almost 300 lawyers, several measures of different types were taken to ensure the best possible management of the trial hearings.

First of all, the initial timetable, spread over x weeks of hearings, provided for 4-day weeks (except during the period when the civil parties were being heard), in particular so that any hearings that had to be moved could be rescheduled or to make up the time if the trial fell behind schedule. The hearings only began at 12:30, with the aim of avoiding over-long days for the parties (and in particular the defendants who were in custody), but also to avoid overloading the security organisation by not having a midday break. The management of the civil parties' testimony also required adaptations: initially planned to be spread over 3 weeks, in the end their testimony took up 7 weeks of hearings, including 2 placed at the end of the trial, before the civil parties' lawyers gave their closing statements, in order to allow for new requests partly linked to a "ripple effect" produced by hearing the accounts of other victims. In addition, in normal proceedings in particular, the distinction between victims who witnessed the offence and claimant victims can mean that they give their testimony at different times (after the investigators and experts have given their testimony for the former, and at the end of the trial before the closing statements for the latter). However, it became clear that in a trial of this type, these distinctions could generate tensions, and it was decided to mingle all of the testimony from both witness victims and claimant victims, to maintain the serenity of the trial.

On the procedural front, other innovations were introduced. Given the large number of civil party lawyers, the presiding judge decided, after a discussion with the lawyers, to reverse the order in which the civil party lawyers and the public prosecutor spoke when the witnesses called by the prosecution and the defence were giving their evidence. The defence lawyers were also allowed to question the witnesses they had asked to be called first.

The civil party lawyers also organised themselves, in several ways. First of all, a system of "liaison" lawyers was set up, in order to facilitate and simplify contacts between the parties involved. A large proportion of the civil party lawyers also accepted the principle of joint closing statements – a single lawyer pleading on one of a series of specific themes identified in advance with their colleagues – in order to save time at the trial and avoid repetition.

- Depending on the specific characteristics of the trial, anticipate and discuss any procedural changes that might be needed to guarantee the parties' rights and ensure the trial hearings remain serene (see box f).
- Draw up an initial timetable for the trial hearings (checking the identities of the defendants, checking which parties are present, reading of the charges, summary of the case, victims' statements, cross examination of the defendants on the facts of the case and their personality, questions & answers, testimony of the expert witnesses and other witnesses, viewing of video footage, video links with abroad, closing statements by the lawyers and the prosecution and the sentences requested by the latter, deliberations), which guarantees the parties' rights are respected and is flexible enough to cope with any unforeseen events (see box f).

- If appropriate, provide a framework for discussions with the parties on the question of whether or not video footage or photos showing bodies should be broadcast or published before the question comes up at the trial hearings.
- To facilitate the presentation of exhibits and documents in court, a cloud-type digital document storage system can be set up and made accessible to the parties' lawyers, the court and the public prosecutor's office.

G. Court life component

The holding of an exceptional trial requires considerable resources, which can be a burden on the routine functioning of the host court. The aim of this working group is to limit as far as possible any consequences prejudicial to the rights of other court users and professionals' working conditions. It will therefore need to work closely with the other working groups, and more specifically with the facilities, health and safety/security and proceedings and hearing management groups.

Challenge

To ensure the court continues to run as normally as possible and to limit as far as possible the trial's impacts on the rights of other users of the court and professionals' working conditions.

1. **Composition of the court life working group.**

Depending on the national contexts and situations, the working group may be made up of:

- a representative of the heads of courts,
- a representative of the lawyers,
- a representative of the court's administrative staff,
- a representative of court's judges and prosecutors,
- the trial coordinator.

One of the members is appointed coordinator of the court life working group.

2. **Defining the needs in terms of maintaining the normal activity of the court.**

The measures necessary to maintain normal activities in the court will be determined based on:

- The assessment of the court's usual needs regarding its routine activities, in terms of facilities, judicial and extra-judicial staff, equipment, etc.
- The identification of the needs arising from the organisation and holding of the exceptional trial, and the extent to which they could weigh on the court's routine activities.
- The assessment of the human resources, equipment, extra facilities etc. needed to guarantee the normal running of the court.
- The determination of the resources needed to prepare and adapt the host court as well as possible for the transformations that will be have to be made.

3. **Planning the operations to be carried out.**

As soon as the trial is announced and over the following months

- Depending on the orientations decided by the steering committee and the facilities working group on the venue for the trial, assess the court's normal operational needs (in terms of human resources, all types of equipment, facilities, etc.) and identify the main points of strain that need to be taken into account.

- Create a forum for dialogue with the court staff so that they can express their needs, fears or issues they are unhappy about and they can be resolved in good time and to circulate comprehensive and complete information to as many people as possible and avoid misunderstandings and rumours.

Between 6 and 12 months before the trial is due to begin

- Based on the more precise assessment of the needs, work on drawing up an order for the court to issue to modify and redistribute staff and rooms, and make sure it takes account of the potential for the trial to go on for longer than initially planned.
- Start the process of recruiting extra judicial and para-judicial staff (judges and prosecutors, court clerks, court ushers, interpreters, etc.)
- Make any adjustments to the buildings and furnishings to ensure that enough rooms and facilities are still available for the court's ordinary activities.
- Assess whether any additional equipment is needed (IT equipment, office furniture, coffee machines, etc.) and start the related public procurement processes.
- Plan several briefing meetings specially for the court professionals in order to present the changes made and the measures taken to limit their impact on their day-to-day activities.

6 months before the trial is due to begin

- Make any changes to the signage required due to the changes to the normal circulation spaces and rooms used.
- Make sure the health and safety/security conditions are optimal in spite of the changes to the circulation spaces and the room allocations.

4. The trial itself and the handling of incidents

The organisational structure presented in points 2 and 3 is not intended to end when the trial begins. On the contrary, to guarantee the smooth conduct of the trial hearings and be ready for all contingencies and unforeseen incidents, it is necessary to keep the structure and its components in place.

A. An organisation to be maintained throughout the duration of the trial

The organisation of an exceptional trial implies anticipating a large number of challenges in advance. The conduct of the trial itself will often require adaptations to the measures identified and planned for or the implementation of new solutions to solve unforeseen problems. These adjustments can only be made within the framework of an effective, responsive organisational structure during the trial itself. To do this:

- The trial coordinator will remain in post throughout the trial, in particular continuing to fulfil their coordination role between the steering committee and the specialised working groups, and their role representing the organisation with the outside world.
- The steering committee presented above will continue to meet (except for the judge presiding the trial) very regularly, even daily, in order to review how the trial hearings are going and to identify the main problems or difficulties and the necessary adjustments.
- The working groups must also continue to meet at regular intervals, depending on their specialist area and the stage reached in the trial, to receive reports of any incidents so that they can provide lasting solutions. The victim support group, for example, will have to meet more often to review the quality of the measures taken for the victims and to discuss potential adaptations. As for the

facilities group, it will only need to meet occasionally once the trial has begun, although it will be mobilised again at the end of the trial to deal with any needs regarding the restoration or conversion of the space after the trial. In any case, the links between the working groups and the steering committee will continue with the exchanging of minutes and the work of the coordinator.

B. Exceptional incidents – minor or major – to be anticipated

Although it is difficult to foresee every eventuality, certain "typical" exceptional events must be envisaged by the different components, to work on the implementation of appropriate procedures to resolve them and provide faster responses:

- a terrorist attack,
- a fire,
- a bomb scare,
- a verbal attack,
- a physical assault,
- a person fainting or collapsing,
- a demonstration,
- a strike,
- a disturbance in the courtroom (rush of people, etc.),
- a technical malfunction (lights, ventilation, sound system, video link, IT system, etc.),
- absence of an active participant in the trial (defendant, jury member, lawyer, judge or prosecutor, expert witness, etc.).

The management of each incident should lead, once it is over, to a post-event review exercise to identify any failings and prepare better for any subsequent difficulties.

Similar review exercises must also be undertaken at the end of the trial, with all of the people who were involved in organising and running the trial. The aspects that were anticipated best, but also the difficulties must be discussed and formalised in writing, in order to keep a record of the discussions.

5. FOCUS: victims' right in EU Directive 2012/29

Directive (EU) 2012/29 of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, gives victims a certain number of rights that must be respected during all criminal proceedings in (and outside) the Member States. They are organised into chapters, which are summarised here:

- Provision of information and support (Chapter 2), implying:
 - Right to understand and to be understood
 - Right to receive information from the first contact with a competent authority
 - Right of victims when making a complaint,
 - Right to receive information about their case,
 - Right to interpretation and translation,
 - Right to access victim support services,

- Support from victim support services.
- Participation in criminal proceedings (Chapter 3), implying:
 - The right to be heard,
 - Rights in the event of a decision not to prosecute,
 - Right to safeguards in the context of restorative justice services,
 - Right to legal aid,
 - Right to reimbursement of expenses,
 - Right to the return of property,
 - Right to decision on compensation from the offender in the course of criminal proceedings,
 - Rights of victims resident in another Member State.
- Protection of victims and recognition of victims with specific protection needs (Chapter 4), implying:
 - Right to protection,
 - Right to avoid contact between victim and offender,
 - Right to protection of privacy,
 - Individual assessment of victims to identify specific protection needs,
 - Right to protection of victims with specific protection needs during criminal proceedings,
 - Right to protection of child victims during criminal proceedings.



Funded by the European Union Justice Programme
Financé by le programme Justice de l' Union Européenne

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