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S.O.S. TERRORISME, AT THE OSCE HIGH-LEVEL MEETING ON
VICTIMS OF TERRORISM**

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Regarding the role of civil society: the French example

Faced with terrorist blackmail, we must find a balance between the right to security and the protection of fundamental freedoms. While no cause, even the most legitimate one, can justify the killing of civilians, nor, by the same token, can efforts to combat terrorism provide justification for democracies to renounce their values and their commitment to the rule of law.

How can we reconcile respect for the basic principles underlying our democracies, respect for the rights of victims — too often overshadowed by the interests of the State — and respect for the rights of the defence, which is essential to a system of justice beyond criticism?

The association S.O.S. Attentats was established at the end of 1985 as a result of a personal experience. It now consists of more than 2,000 wounded victims of terrorism, along with the families of the people killed.

I should like to say at the outset that S.O.S. Attentats has several working principles. First, our actions are not motivated by a spirit of vengeance; we take a clear stand against the death penalty, including for terrorists; we would like to see the rights of the defence always guaranteed in accordance with the principles of the rule of law; and we prefer the judicial route and prevention to any other means of combating terrorism. But these principles must not deprive victims of their rights to reparation, to be heard, to coaching and mentoring, to a judicial proceeding, and to universal solidarity.

Day by day, acts of terrorism are proliferating on all continents — from New York to Washington, from Madrid to London, from Djerba to Karachi, from Bali to Jakarta, from Riyadh to Casablanca, as well as in Israel, Algeria, Kenya, Turkey, Russia, Palestine, Yemen, Afghanistan, Iraq and Egypt. Even the United Nations was targeted on 19 August 2003 in Baghdad. Every day, we lament new crimes, new victims. The phenomenon of terrorism has now become a major concern for the international community.

For decades, efforts to combat terrorism have led to the adoption of numerous international regulations. However, the question of the victims — their rights, their suffering, and reparation of their losses — has long been ignored.

In spite of the media impact produced by a terrorist act, victims for many years have remained marginalized and isolated. As soon as they stop receiving intensive medical care, they face indifference and are left with no assistance, psychological, social, financial, or legal. When a terrorist attack occurs, all compassion is centred on the victims, but they soon fall back into oblivion and solitude. Decision-makers focus their efforts on erasing the visible traces of the physical damage. These observations have guided our actions.

I propose first of all to present to you the actions and achievements of S.O.S. Attentats that have led to growing recognition of victims' rights in France. I will then describe our expectations and hopes as to how an equitable and universal judicial response can be formulated and implemented to combat impunity.

We inform, guide, coach and mentor all victims of terrorism in all their social, administrative, medical and judicial representations, providing them with advice and placing at their disposal a network of specialized medical and legal professionals. The association organizes gatherings and discussion groups. In particular, it facilitates immediate and long-term, comprehensive and multifaceted care of the victims and their families. It gives advice on medical examination procedures. S.O.S. Attentats also represents the victims before the French, European and international public authorities, and combats terrorism with full respect for human rights.

The right to compensation

We have won the right to fair and speedy compensation. The Insurance Fund for Victims of Terrorist Acts was established by the law of 9 September 1986. The jurisdiction of this agency was retroactively extended to victims of terrorist attacks committed since 1 January 1985, and later expanded to include victims of criminal offences by the law of 6 July 1990.

The Insurance Fund is an autonomous public agency which lays down the rules on compensation. Its Board of Directors consists of a chairman, a magistrate, four representatives of the ministries of Finance, Justice, Social Affairs and the Interior, three persons who have expressed interest in helping the victims, and an insurance professional. S.O.S. Attentats has been a member of this board, and represented victims on it, since its inception.

Financing for the Fund is ensured through a national solidarity contribution assessed on property insurance contracts (all-risk homeowners, business and car insurance). For the last several years, the contribution has been set at 3.30 euros per contract.

The Insurance Fund fully compensates victims for all losses and damage sustained, including of a psychological nature. Such compensation is completely independent of criminal proceedings, since in any event, victims retain their rights in the criminal justice sphere.

The Fund compensates all victims, including hostages or their heirs, regardless of their nationality or their legal status in France, when the act of terrorism is committed in France. In the case of acts committed abroad, compensation is granted to French victims and to the French or foreign heirs of French victims.

The Prosecutor-General informs the Insurance Fund of the victims' identity. When attacks are committed abroad, the Ministry of Foreign Affairs refers the cases to the Fund. The Insurance Fund must disburse the funds within a period of one month counted from the date of the victims' request. The funds may be replenished depending on the victims' medical requirements. The victims have a period of 10 years in which to apply to the Fund.

The Insurance Fund handles the cases directly as part of a friendly procedure. Degrees of physical and psychological disability are established through medical examinations. Suffering and disfigurement are evaluated along with the occupational ramifications. Disabled persons are provided with assistance in adapting their homes.

The financial proposal is made within three months following the submission by the victim or his or her heirs of the substantiated claim for the losses or injuries sustained. In case of disagreement, the victim can file a civil claim, with the possibility of appeal. Settlement may take the form of a lump sum or a recurring benefit.

S.O.S. Attentats helps victims prepare their case files and defends them before the Board of Directors of the Insurance Fund. Since 1 January 1987, the Insurance Fund has handled 3,411 cases involving 592 terrorist events.

The right to the status of civilian victim of war

S.O.S. Attentats has obtained for victims the status of civilian victim of war by law. This law, applicable to acts committed since 1 January 1982, concretely expresses the fact that terrorism is regarded as "war in a time of peace". Beyond this abstract recognition, the law grants victims of terrorist acts benefits under the provisions of the Military Disability Pensions Code, free medical care, access to military hospitals and, for child victims, the status of war orphan.

The right to better medical and social care seemed necessary to us

S.O.S. Attentats has campaigned for the specific traumas suffered by victims to be taken into account and for the establishment of a relevant psychological support system and a better assessment of the victims' needs. To this end, we initiated and facilitated a series of medical studies. An initial study was carried out among victims of terrorist acts committed between 1982 and 1986. The results of this study were submitted to the administrators of the Insurance Fund and were used to modify the compensation rules. A new category of damage was established. The category of "specific losses or damage suffered by victims of terrorist acts" confers the right to an additional benefit.

In 1998, despite an improvement in victims' care, S.O.S. Attentats noted that the therapeutic initiatives were still poorly co-ordinated and structured over time, owing to the lack of objective knowledge concerning the nature, frequency, severity and duration of the

specific health problems experienced by victims of terrorism. In particular, there was no systematic screening and appropriate treatment for hearing disorders.

A new epidemiological study on the health consequences of terrorist acts committed in 1985 and 1986 (ECSAT) showed a very strong correlation between psychic pain and hearing disorders, which affect more than two thirds of victims. The results of this study confirmed the frequency of post-traumatic psychological consequences several years after the traumatic event.

To keep the victims from being forgotten, S.O.S. Attentats has had a memorial erected, dedicated to all victims of terrorism and inaugurated by the then President of the Republic, Mr. Jacques Chirac. This work, installed in the Hôtel National des Invalides (a national monument housing disabled veterans' institutions) in Paris, is entitled "In memory of victims of terrorism". Each year, we organize a commemorative event dedicated to all victims of terrorism. On 19 September this year, the ceremony will be attended by Mr. Nicolas Sarkozy, President of the Republic.

The right to justice and truth is the association's toughest battle

Without hatred, and without a spirit of vengeance, we simply want all perpetrators of terrorist crimes to be prosecuted and tried and to serve their sentences. We want them to be tried fairly, with full respect for the rights of the victims and the defence. An adversarial proceeding constitutes the final stage of reparation.

Within the French criminal justice system, S.O.S. Attentats has acted as a civil plaintiff in all criminal cases relating to terrorist crimes and offences. We enjoy this right under the law of 6 July 1990, and it is also provided for in Article 2-9 of the Code of Criminal Procedure. S.O.S. Attentats now monitors criminal proceedings against perpetrators of terrorist acts committed in France or against French citizens abroad.

But prosecution faces many legal and diplomatic obstacles. Amnesty and immunity provisions, refusals to extradite even within the European Union, freeing of suspects, dismissals of proceedings, and shelving of cases with no follow-up are common.

Open court proceedings go on forever; some have lasted more than 20 years. There are too few trials. Sentences are often handed down in absentia. The law ceases to be a deterrent when the justice system is slow to punish and penalties are not applied.

At the European level, harmonized prevention and suppression policies and measures to combat the financing of terrorism must be put in place. Automatic extradition of terrorists to the State on whose territory a terrorist act was committed must be established. Political asylum must not be claimed within the Schengen area. We would also like to see a European Public Prosecutor's Office established to head transnational investigations, monitor procedural decisions, and unify prosecutions.

At the international level, S.O.S. Attentats would like to see all victims of terrorism, regardless of their nationality and of where the terrorist act was committed, receive equal and comprehensive compensation for losses and damage suffered. There must be no discrimination in the treatment of victims.

All those responsible for terrorist acts — perpetrators, accomplices, financial backers, sponsors, and masterminds — must be prosecuted, tried and sentenced. In view of present threats, a fair and universal judicial response, with full respect for the rights of the defence as well as those of the victims, is essential. The International Criminal Court must have jurisdiction to try terrorist crimes as it does war crimes, genocide, and crimes against humanity.

In this regard, S.O.S. Attentats has, since 2002, published the “*Livre Noir*” (Black Book) containing 32 contributions by internationally prominent persons, academics and researchers. Then, in 2004, a new collective work, *Terrorisme, victimes et responsabilité pénale internationale*, was published in French by Calmann-Lévy. It is available in English from the association under the title “Terrorism, Victims and International Criminal Responsibility”. In addition, major excerpts in Spanish and Italian have been posted on our website (<http://www.sos-attentats.org>).

Conclusion

A member of the National Advisory Commission on Human Rights, S.O.S. Attentats is the first victims’ association to sit on this panel. This appointment testifies to the public recognition of our commitment to defending human rights.

Since 2003, our association has also been recognized as a non-governmental organization by the United Nations Department of Public Information and has consultative status with the United Nations Economic and Social Council. This international recognition enables S.O.S. Attentats to speak on behalf of victims within the United Nations structures overseeing efforts to combat and prevent terrorism and protect its victims.