Directive on the payment of hardship payments
for victims of terrorist and extremist acts
from the Federal Budget
(Chapter 0718 Titles 681 02 and 681 01)

Preamble

It is the duty of democratic states which are governed by the rule of law, and of pluralistic societies, to outlaw and prevent terrorist and extremist acts. As these acts are aimed not against individuals, but against the state and society as a whole, the state bears a particularly great responsibility towards victims.

It is, therefore, as an act of solidarity and humanity, also the duty of the state to help victims of terrorist and extremist acts. The aim of hardship payments is to provide victims with swift, uncomplicated financial assistance in specific cases. The persons affected should, in these specific cases, receive the payment as emergency assistance which the state pays on a voluntary basis, if it is fair to do so.

Section 1: Prerequisite for receiving hardship payments

(1) Hardship payments are made to victims of terrorist acts in the event that they lose (a) close family member(s) or suffer physical or mental ill health.

(2) Hardship payments are made to victims of extremist acts in the event that they lose (a) close family member(s), suffer physical or mental ill health, or are the target of grave insults or substantial threats from individuals.

Section 2: General principles

(1) Hardship payments should be an act representing society’s solidarity with the victims and send out a specific signal. The intention of the authors of this Directive and those of the German Bundestag when providing the funds for the Budget is that there should be an interpretation which gives broad leeway in favour of the victims and, in general, is generous.

(2) For hardship payments to be made, it shall not be necessary for the victims to be in financial need.

(3) In the event that the victim is able to obtain payments for the same purpose from others, such payments shall be taken into account when hardship payments are being approved. These shall include, in particular, claims against public agencies such as against agencies of social compensation law, and against private institutions
such as insurance companies. Subsection 5 No. 3 shall remain unaffected. In the event that the perpetrator has already made a payment to the victim for the same purpose, this shall also be taken into account.

(4) In the event that a terrorist or extremist act is perpetrated within Germany using a vehicle or trailer, hardship payments shall be made pursuant to Section 5 Subsections 1 to 3, Section 6 Subsection 1 first sentence and Subsection 2, as well as Section 7 Subsections 1 and 3 of this Directive. In the event that payments have already been made from the compensation fund pursuant to Section 12 of the Compulsory Insurance Act (Pflichtversicherungsgesetz), or from vehicle liability insurance, these shall be taken into account.

(5) The following shall not be taken into account when hardship payments are approved:
   1. Compensation payments made by agencies outside of Germany for victims of terrorist acts, unless the costs involved are funeral costs,
   2. Payments from foundations or compensation funds of the Länder (federal states),
   3. Damages payments for pain and suffering which are paid by insurance which was financed by the victim him/herself,
   4. Donations from third parties as well as comparable payments.

Section 3: General rules of procedure

(1) Applications shall be processed and hardship payments shall be paid out by the Federal Office of Justice, the budget of which shall receive the relevant funds. The assistance should be afforded as swiftly as possible and involve as little bureaucracy as possible. Applications shall be dealt with as urgent cases, as a matter of priority.

(2) In general, hardship payments shall only be approved if they are applied for. In the application, the victim should
   1. declare him/herself to be in agreement with the necessary transmission of his personal data from and to other public authorities, and
   2. cede any similar entitlements to compensation which may exist against third parties, in the amount of the hardship payment that has been paid out, to the Federal Republic of Germany.

(3) In the event that, in exceptional circumstances, the victim is not in a position to make an application, a payment may also be considered if another person makes the application for the victim without having been given the authorization to do so.
A hardship payment may be approved as long as there is a high likelihood that it will be established that the requirements for it have been fulfilled. The rules of informal evidence shall apply.

The entitlements which the victim has ceded pursuant to Subsection 2 No. 2 shall be asserted by the Federal Office of Justice in accordance with general rules.

**Section 4: Applicants**

1. Hardship payments can be approved for
   1. Victims of terrorist and extremist acts committed in Germany,
   2. Victims of terrorist criminal offences which were committed outside Germany,
      if the victims are German nationals or non-German nationals with legal, permanent residence in Germany.

2. Surviving relatives of persons killed by such an act, as well as those who have acted in self-defence of another as set out in Section 32 of the German Criminal Code (Strafgesetzbuch), shall also be defined as victims pursuant to Subsection 1. Surviving relatives as defined by this Directive shall be spouses, parents, children and siblings of a person killed by a terrorist or extremist act. Other persons may be defined as surviving relatives in this sense if it is established as being highly likely that, at the time of the terrorist or extremist act, they had a particularly close personal relationship to the person who was killed, and that this relationship was – in terms of its actual character – equivalent to one of the close relationships named above.

3. Third parties who have suffered damages as part of the fulfilment of their duties under public sector employment law or labour law when being deployed against terrorist or extremist acts, or on the occasion of such acts, shall, in general, not receive any payments under this Directive.

**Section 5: Hardship payments in case of death**

1. Hardship payments can be approved for surviving relatives for the loss of a close relative, and in order to lessen the blow of a possible loss of maintenance.

2. The lump sum for the loss of a close relative shall be EUR 30,000 for those surviving relatives who have lost a spouse, parent or child, and EUR 15,000 for those who have lost a sibling.

3. The lump sum aimed at lessening the blow of a possible loss of maintenance is EUR 25,000 for surviving spouses. Surviving children receive

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1 In accordance with Section 21 of the Act on Registered Life Partnerships (Gesetz über die Eingetragene Lebenspartnerschaft – Lebenspartnerschaftsgesetz – LPartG), regulations regarding spouses and marriages which come into force after 22 December 2018 shall apply mutatis mutandis for life partners and life partnerships, unless otherwise provided for.
1. EUR 45,000 if they were up to 6 years of age when their parent was killed,
2. EUR 35,000 if they were 7 to 12 years of age when their parent was killed,
3. EUR 25,000 if they were 13 to 18 years of age when their parent was killed.

(4) The lump sum for a gravestone or other form of memorial is EUR 2,000. In other respects, in the event that the act took place in Germany, funeral costs are not reimbursed. In the event that the act took place outside of Germany, hardship payments can be made for funeral costs up to the amount specified in Section 1 Subsection 1 of the Act on Compensation to Victims of Violent Crime (Opferentschädigungsgesetz) in conjunction with Section 36 Subsection 3 of the Federal War Victims' Compensation Act (Bundesversorgungsgesetz).

Section 6: Hardship payments in case of injuries

(1) Victims who have suffered injuries may have hardship payments approved in order to compensate for intangible damages for health-related impairments or for violations of their right to privacy. In the event of health-related impairments, hardship payments may also be approved in order to lessen the blow of hindrances to career development which may have been caused.

(2) When setting the amount of a hardship payment for the intangible damages, the principles developed by case-law with regard to the setting of damages payments for pain and suffering shall be taken into account, as shall the aims which are linked to the funds being made available.

(3) In order to lessen the blow of possible hindrances to career development, a lump sum shall be paid. In the event of proven permanent incapacity to work which is causally attributable to the act, this lump sum shall be of EUR 20,000. If the incapacity to work is not permanent, the lump sum will be reduced accordingly.

Section 7: Hardship payments for travel costs and taking part in legal proceedings

(1) A one-off hardship payment may be approved for close relatives (Section 4 Subsection 2 sentences 2 and 3) of persons who have been injured or killed, if they travel to the place where the act took place during the period immediately after the act in order to look after the relevant person in hospital if they are seriously injured, or in order to take care of the person’s burial or the transportation of their remains.

(2) A one-off hardship payment may be approved for victims who have joined the criminal proceedings in Germany as joint plaintiffs pursuant to Section 395 Subsection 1 No. 2 and Subsection 2 No. 1, as well as Section 396 of the German Code of Criminal Procedure (Strafprozessordnung), and are taking part in the main hearing.

(3) The lump sum for journeys shall be, per person:
1. from 50 km: EUR 100,
2. from 150 km: EUR 300,
3. from 350 km: EUR 600,
4. from 750 km: EUR 900,
5. from 1000 km: EUR 1,200.

Section 8: Grounds for exclusion
Payments pursuant to this Directive shall usually be ruled out if, in a specific case, there is no particular need for protection, and it would not be fair to approve a hardship payment. This is to be assumed to be the case, in particular, in the event that extremist acts were carried out in mutual antagonism, or in the event that applications are made by persons who are involved in political activities which actively fight against the basic constitutional order [of Germany] or are actively directed against the basic values of a pluralistic society.

Section 9: Revocation of the approval and demand that payments be paid back
With respect to revocation of the approval and a demand that hardship payments which should have not been made be paid back, Sections 48 and 49a of the Administrative Procedure Act (Verwaltungsverfahrensgesetz) shall apply.

Section 10: Notification of persons affected and of the public
The Federal Office of Justice shall inform the public and affected persons about the possibility of receiving hardship payments.

Section 11: Entry into force, Expiry, Provisions for the transitional period
(1) Section 7 Subsections 2 and 3 shall enter into force on 1 January 2021. The remainder of the Directive shall enter into force on the day after the date on which it was signed. At the same time, the Directive on the payment of hardship payments for victims of terrorist offences of 21 December 2006 and the Directive on the payment of hardship payments for victims of extremist attacks of 18 December 2009 shall expire.
(2) Section 7 Subsections 2 and 3 shall apply to terrorist and extremist acts for which the main hearing took place or is to take place after 1 January 2021. The remainder of the Directive shall apply to terrorist and extremist acts which take place after its entry
into force. For acts perpetrated before this, the directives valid until this date shall continue to apply.

Berlin,

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State Secretary