

Terrorist Suspects' Rights in the European Union

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CASE STUDY

Optimty worked with a wide range of stakeholders across Europe to propose a solution that would deliver the highest level of healthcare for patients and families.

THE CHALLENGE

Optimty Advisors conducted a study on the legal framework in the EU and 10 EU Member States around the rights of persons suspected of terrorism-related crimes.

As a result of a series of terrorist attacks in European Union (EU) Member States recently, the EU and its Member States have enacted or revised legislation to respond to the threat. The legislation aims to deal with “home grown”, “foreign terrorist fighters,” as well as persons who travel abroad to fight or get trained abroad to commit terror attacks. The responses include measures to increase prosecutorial powers, amend rules around deportation and the revocation of travel documents, change surveillance powers, and to criminalise travel to conflict zones. These measures refer to substantive criminal law. However, the legislation also introduced procedural changes and increased coordination efforts to meet new challenges. In this context, the European Parliament commissioned a study to understand the revised legal provisions on the rights of suspects and accused persons.

HOW WE HELPED

The study was conducted based on multiple analysis techniques which examined both qualitative and quantitative data.

The methodology used for this study draws upon comparative and legal analysis techniques, combined with expert opinions, to analyse data collected through different means, including:

- Country reports covering 10 Member States (Belgium, Germany, Greece, Spain, France, Italy, the Netherlands, Poland, Sweden and the UK). The selection accounts for an adequate representation of Member States and their exposure to terrorism and/or anti-terror legislation



How we helped (continued)

- Desk research assessing information published at EU level, internationally and in case study countries
- Interviews covering European institutions and national stakeholders in case study countries
- Expert workshop, with two renowned legal experts who supported the study team

Through the study, Optimity Advisors was not only able to produce empirically-founded resources but were also invited to recommend policy amendments.

RESULTS/IMPACT

The study resulted in many relevant research findings and policy recommendations.

The study found that:

- The trends/types of terrorism have changed in many EU countries over the years. For example, in the 1970s – 80s, authorities were mainly concerned about left-wing, right-wing, anarchist and separatist terrorism. Currently, most terrorism relates to jihadist terrorism.
- In the 10 Member States studied, the numbers of fatalities and injuries from terrorism has decreased. While the potency of contemporary attacks (2010-2016) is higher than those in the 1990s and 2000s, it does not exceed the same figure from the 1970s – 80s.
- The criminalization of terrorism offences has moved upstream (i.e. before a potential terrorist attack) alongside an increase in administrative measures taken to prevent terrorist attacks (e.g. seizure of travel documents);
- There no agreed definition of what it means to be a ‘suspect’ in terrorist and terrorism-related crimes, which leads to differences in the rights afforded to those suspects. The rights of people suspected or accused of terrorism-related offences are outlined clearly as in any other criminal procedure. However, the rights of “persons of interest” and “persons subject to an administrative measure” are less clear. In many cases there is no, or little judicial oversight only exercised in an ad hoc manner.
- The exchange of information on terror suspects is complex, and there are many tools available to facilitate it. This is further complicated by the fact that many agencies at Member State level have overlapping capabilities.

Based on Optimity’s findings, the team made several recommendations to the European Parliament. This includes introducing a comprehensive database for statistics on terrorism, to provide more clarity on the different categories of suspects and their rights. The database would also encourage Member States to make information exchanges with other countries more transparent, and eliminate the need to conduct follow-up research.



THANK YOU

There is always more to the story. For a more comprehensive discussion on this project or other Optimity Advisors' consulting services and solutions, please contact:

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