

Cross-border victimisation

Summary

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Beke *reeks*

At the request of

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Summary from:

Grensoverschrijdend slachtofferschap

Een inventarisatie van aard, omvang en behoeften in verband met de effectuering van slachtofferrechten

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Summary

On 25 October 2012 an European directive on victims' rights within the European Union (EU) was adopted.¹ The purpose of this directive is to establish minimum standards on the rights of victims of crime within all 28 EU Member States. These minimum rights include appropriate support, information and protection, and the directive should be implemented in the national legislation of the EU Member States by 16 November 2015.

Apart from specifically defined victim groups (children, victims of terrorism, disabled persons and surviving relatives) three types of victims can be distinguished for whom the Netherlands bears responsibility:

1. Dutch nationals who have fallen victim to a criminal offence abroad and have returned to the Netherlands, or their surviving relative(s) (victim type A);
2. NonDutch nationals who have fallen victim to a criminal offence in the Netherlands either during a tourist visit or during their stay in connection with work, education, et cetera (victim type B);
3. NonDutch nationals who have fallen victim to a criminal offence abroad for which the offender is prosecuted in the Netherlands, for example because the offender lives in the Netherlands (victim type C).

To gain insight into the potential impact of the relevant EU directive and any required policy measures, knowledge of the nature and extent of cross-border victimisation and victims' specific problems and needs is essential. Thus, the Scientific Research and Documentation Centre (WODC) of the Ministry of Security and Justice commissioned further research into this matter. The research study focuses on the following question:

- What are the nature and extent of cross-border victimisation for which the Netherlands bears responsibility and what are the specific problems and needs, if any, of victims in cross-border cases?

Methods

Prior to conducting the actual research, a list was made of the sources that were available for this research study. Out of 27 possible sources, 6 were selected. Various considerations played a role in this selection process. The most important were: 1) a picture should be obtained of all types of victims, 2) the data should be quantitative and accessible to the researchers, and 3) the information of the authorities or sources to be consulted should show only minimal overlap. Based on these criteria the following authorities and sources were included in the research conducted in 2013.

The Integral Safety Monitor

The Integral Safety Monitor (*Integrale Veiligheidsmonitor* or IVM) is a large-scale population survey conducted annually among all people living in the Netherlands aged 15 and over. This survey asks questions about matters such as the quality of life and public nuisance in the neighbourhood, how safe or secure people feel and whether they have fallen victim to common types of crime. The IVM was used to gain more insight into the number of Dutch nationals that have fallen victim to a criminal offence abroad.

The National Police

When people report a crime, the police record their personal data. We consulted the police registration system, the so-called Basic Information Facility (*Basisvoorziening Informatie* or BVI). The gender, age and nationality of alleged victims and the criminal offence against them have been registered. Police information was used to gain more insight into 1) the number of Dutch nationals having fallen victim to a criminal offence abroad – victim type A – and 2) the number of foreign nationals having fallen victim to a criminal offence in the Netherlands – victim type B.

The Royal Netherlands Marechaussee

The Royal Netherlands Marechaussee (*Koninklijke Marechaussee* or KMar) have a policing task in, for example, civil aviation and on some international train routes. This implies that foreign victims of crime can report not only to the national police but to the KMar as well. In addition to the police information available, data from the KMar Basic Booking System (*Basisprocessensysteem* or BPS) were also included in the research. The relevant category is victim type B here.

Requests for judicial assistance

The LURIS registration system is used to register international requests for judicial assistance. The Public Prosecution Service (*Openbaar Ministerie* or OM) is the managing authority of this system. The requests for judicial assistance were studied to collect information on all three distinct victim types.

The Dutch Ministry of Foreign Affairs

In foreign countries the Netherlands is represented by embassies and consulates. They fall under the responsibility of the Dutch Ministry of Foreign Affairs (*Ministerie van Buitenlandse Zaken* or BuZa). The Kompas system registrations were studied in order to get an idea of the extent of cross-border victimisation of Dutch nationals abroad (victim type A).

The International Crime Team

The International Crime Team (*Team Internationale Misdrifven* or TIM) has investigated international crimes for ten years now. Penalization and jurisdiction concerning international crimes are based on and anchored in several international treaties. The cases the TIM has handled until now pertain to victim type C: non-Dutch nationals who have fallen victim to a criminal offence abroad and for which the offender is prosecuted in the Netherlands.

After having processed the quantitative data from the sources described above, additional interviews were held in order to supply more in-depth information and for interpretation purposes. 29 respondents in total were interviewed.

Results

The central research question can be divided into two aspects. Firstly, the nature and extent of cross-border victimisation, and secondly, the specific problems and needs, if any, of the victims. The two aspects will be discussed per victim type here.²

Victim type A: Dutch nationals victimised abroad

To picture the nature and extent of cross-border victimisation, four sources were consulted. The number of victims known to the Ministry of Foreign Affairs and LURIS were limited in a quantitative sense: 99 and 300 respectively, on the basis of extrapolation, in 2013. The number of victims according to the IVM and police data was higher and made it possible to generate a number of base figures. On the basis of an extrapolation of IVM data approximately 111,000 unique Dutch nationals have fallen victim to approximately 117,000 criminal offences in total. Slightly less than two per cent of these victims reported the crime to the police. Depending on the source consulted, the victims were on average 39 and 45 years of age respectively. They fell victim to property crime in particular. The number of people that

had fallen victim to violent crime or sex crime was much lower and on average the victims were younger. The two richest sources showed variations in the percentage of victims of violent crimes and sex crimes: from 2.4 per cent (IVM) to 8.7 per cent (police) of the total number of criminal offences.

The needs of most victims were limited to obtaining financial compensation for the damage suffered. Victims of property crime could often obtain compensation from their insurance companies. However, the victims and surviving relatives of serious crimes such as sex crimes, violent crimes and capital crimes (also) felt a need for emotional support, information and practical assistance. Victim Support Netherlands (*Slachtofferhulp Nederland* or SHN) is the organisation to turn to in such matters. However, not all victims were actually aware of the possibility to obtain support from this organisation. Apart from this fact, Victim Support Netherlands cannot always offer the same level of assistance to victims of crime abroad as in the Netherlands. Dutch nationals who have fallen victim to crime abroad take up a different (legal) position in relation to the other parties in the criminal justice chain. Therefore, the so-called SHN case managers may have to go to great lengths to obtain information on the case from the foreign Public Prosecution Service. Moreover, victim support abroad is often organised in a different way than in the Netherlands. This may lead to problems when assisting victims or surviving relatives during the criminal proceedings. Connected to this, it was also difficult for victims to obtain compensation. Since the criminal offence was not committed in the Netherlands, it is not possible for them to claim damages from the Violent Offences Compensation Fund (*Schadefonds Geweldsmisdrijven*). Although there are similar funds abroad, filing a claim for damages abroad is a lengthy procedure the outcome of which is by no means certain, whereas significant sums of money have to be spent by the victim, particularly when a crime leads to a criminal case. Many documents (e.g. crime reports, files, other papers) need to be translated and a local lawyer needs to be hired to represent the victims or surviving relatives as a party to the case. The Dutch embassy may play a facilitator role in creating a solution if the victims or surviving relatives do not receive the legally required assistance with the help of lawyers (for instance, issuing a 'laissez-passer' for the transfer of corpses or obtaining a copy of official documents for which costs are charged). An important conclusion is that surviving relatives expected more from the Dutch embassy than it is actually able to offer with respect to its (statutory) options.

The study shows that part of the Dutch nationals who had fallen victim of crime abroad reported to the Dutch police instead of to the police in the foreign country. Language barriers or being unable to speak the foreign language well, if at all, played a role in this. To what extent the Dutch police are required to record such reports was not clear to respondents at the time. The EU directive to be implemented is nonetheless clear in this respect: this ought to be possible. With a view

to the investigation of serious crimes there are limitations, however, for the Dutch police have no local knowledge (for example about the crime scene) and they have no powers of investigation. A request for judicial assistance may offer respite then.

Victim type B: NonDutch nationals victimised in the Netherlands

To identify this type of victim three sources of information (police, KMar and LURIS) were consulted. From a quantitative point of view, most crime reports were filed with the police, i.e. more than 28,000 cases. In 2013 KMar filed 517 crime reports from foreign nationals, and LURIS had approximately 270 cases (unique victims) in the same year. The analysis showed that the criminal offences that foreign nationals had fallen victim to in the Netherlands were minor offences in most cases. They often pertained to property crimes and males were the victims. A minority of cases concerned violent crimes and sex crimes. The victims of these crimes were for the most part younger than the overall average of 39 years of age.

The victims from foreign countries registered by the police were predominantly nationals from countries surrounding the Netherlands. Judicial assistance requests more often pertained to Eastern European cases, whereas the KMar registered proportionally more crime reports from British nationals. Foreign victims' needs were mostly concerned with obtaining financial compensation for the damage suffered. In addition, they were in need of practical information about, for example, how to obtain new travel documents or money to pay for living expenses or for their return to their countries of origin. Victims from foreign countries hardly ever appealed to Victim Support Netherlands. The needs of victims of more serious crimes went beyond the need for material compensation. For these victims information on the progress of the criminal investigation and the criminal case, access to the files and translations of documents were important.

People are usually required to report a crime in order to successfully file a claim with their own insurance company. It stands to reason that it is also necessary to inform the police of a criminal offence if criminal investigation and prosecution are desired. Victims may be faced with language problems when reporting a crime. On the one hand when reporting the criminal offence, on the other hand when receiving information on judicial customs and procedures in the Netherlands. At present, there is no uniform information system geared towards foreign victims. The existence of the European telephone number that can provide victims with information on rights and procedures, is not well-known.

Victim type C: Non-Dutch nationals who have fallen victim to a criminal offence abroad for which the offender is prosecuted in the Netherlands

Two sources of information/authorities were consulted to gain insight into the nature and extent of victimisation and the needs of victim type C: LURIS and TIM.

The LURIS data show that an extrapolated 415 foreigners fell victim in particular to internet fraud and internet swindle in 2013. Internet swindle pertained in particular to victims who made purchases via the internet, transferred money to the suspect's Dutch bank account, yet did not receive the goods purchased. Victims of internet fraud (i.e. phishing) were generally compensated for by their own bank, and the bank subsequently participated as a civil party in the criminal case, if any. The EU directive only applies to victims of internet swindle when prosecution takes place in the Netherlands or another EU country. When prosecution takes place in the country of origin of the victim, the victim's national law applies.

War crimes are investigated and prosecuted by the TIM. This mainly concerns criminal offences that have been committed outside the EU. Given the seriousness of the crimes, the victims' needs differed considerably from those of the aforementioned group. The most important needs were psychological support and information about the progress of the criminal proceedings. The latter need in particular could not always be fulfilled, partly because this information may not or cannot be shared during the criminal proceedings. Moreover, victims were not always able to exercise their rights because they were not considered victims but witnesses in the formal criminal case. Although they were victims of war crimes, they were not the victims of the person being prosecuted.

Conclusion

This research study into cross-border victimisation shows that the EU directive will potentially concern a large group of victims because of its scope and effect. Therefore it is important to consider how this legislation can be implemented efficiently into the existing work processes of organisations such as the police and the Public Prosecution Service. The nature of the criminal offences and victims' motives to report them may be used as guiding principles. Most people fall victim to property crime and report to the police in order to be eligible for financial compensation with their insurance companies. In such cases a report of the police crime report and a final report (a so-called *afloopbericht*) in the victim's own language or another language that they can understand would suffice. Victims of more serious crimes, such as violent crimes and sex crimes, have different needs and expectations. This relatively small group will probably need more actions tailored to their specific needs

from the authorities, for instance concerning the provision of (translated) information and the participation in the criminal proceedings.

Endnotes

1. Directive 20-12/29/EU.
2. The research also revealed a fourth victim type, i.e. Dutch nationals who live abroad en have fallen victim to a criminal offence in the Netherlands.



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