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МЕЂУНАРОДНО КРИВИЧНО ПРАВО
СА ОСВРТОМ НА ЗАШТИТУ ЖИВОТНЕ СРЕДИНЕ

COLLECTION OF SCIENTIFIC PAPERS
INTERNATIONAL CRIMINAL LAW
WITH REFERENCE TO ENVIRONMENTAL PROTECTION



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CRIME NETWORK OF INTERNATIONAL TERRORISM - FORMS OF EXPRESSION -¹

Dr Dragana Petrović

Ph.D., Research Associate

Institute for Comparative Law in Belgrade

We live in a dangerous and uncertain world, a time of devastating contradictions and threatening uncertainty. And reality seems to have broken its own mirror. In front of our eyes, the conflict between the old and new actors of history is unfolding, and it is getting fiercer and more deadly. That conflict and the changes caused by it extend throughout the arc - from new forms of dehumanization, from its Orwellian character to different, more humane forms of life, to new principles on which modern society is based. In such and such a contrast, completely different tendencies of enormous power fight for the upper hand. "Managing" these great challenges depends on whether this world, exposed to the dangers of regression and destruction, will go towards "its end" or progress in the direction of a progressive, happier future. Unfortunately, it seems that a part of humanity has decided on this first path, the path of constant, potential danger, conspicuous irrationality, aggressiveness, mass destruction, enjoyment of the spectacles of violence... The unquenchable thirst for power, which with its influence forms distinct individualism, indifference, indifference to other beings, leads to a "breaking point" where the complex and highly fragmented structures of this society intersect, the place where religious, national, ethnic, social and other differences and interests intersect. Aggressive potential, which finds its highest expression in wars and acts of terrorism, can only mean closing the "circle of hell" in which and around which chemical, biological or nuclear weapons increasingly revolve, sophisticated electronic warriors who penetrate and sabotage electronic systems, a more bloodthirsty variant of today's terrorists studded with conventional explosives, etc. And all this based on the realpolitik principle that the power to destroy is the same as the power to control and change. And all that on a global level. In this work, attention is paid to one particular aspect of international terrorism. Seen from the aspect of actuality and scope of processing, there found their place questions focused on what gives the general stamp, special and unique essence to various forms of crimes of international terrorism. This implies consideration of other important issues that arise in connection with the respective topic. The tendency is clear and it should provide guidelines for future actions (prosecution and punishment) in the fight against each of these crimes.

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Key words: terrorism, international crime, types, determination of the situation and organization in the fight against it.

1. INTRODUCTORY CONSIDERATIONS

The reason that we will take a “trip into the past” of international criminal law, more precisely - international criminal acts, is not that we are fans of the “museum” of this area of law, but that we will see that this historical process represents a phenomenon of relatively short duration, yet strongly influences the prevention of international criminality. Thus, the “historical legacy”, conditioned and established by the uneven movement, contradictory and changing political situation, will give the basic stamp to the concept of international criminal acts. Thus, the need for a more detailed explanation of terrorism as an international crime will be on the agenda for considering and clarifying international terrorism.

But let's start in order.

International criminal law is a set of international rules that prescribe what international criminal acts are and impose an obligation on states to prosecute and punish at least some of them (substantive law). It also regulates international procedures for the prosecution and trial of persons accused of committing those crimes (procedural criminal law). Let's emphasize, the first branch of that set of rules (we said, constitutes substantive law), determines: which acts constitute international criminal acts, the subjective elements of being prohibited acts, the possible circumstances under which persons accused of those crimes can still be released from criminal responsibility, as well as under what conditions states can or must, in accordance with international rules, prosecute and bring before the courts persons accused of those crimes.

Putting the first group of rules (rules that determine international criminal acts) in the center of our consideration, it is necessary to say at the beginning that the list (of those acts for which international law makes the inspirers, commanders and executors criminally responsible), in terms of the number of these acts, their structure, content, names, with gradual additions and subtractions, was constantly changing. At the end of the 19th century and for many years after that, only war crimes were punished. After World War II, new categories of crimes appeared, while war crimes were reformulated: the statutes of the Hirnberg International Military Tribunal (1945) and the International Military Tribunal for the Far East (1946) added new international crimes to the list. Crimes against humanity and crimes against peace were added as new types of punishable acts in 1945, and in 1948, genocide was added as a separate subtype of crimes against humanity (soon after that, genocide became an independent type of crime). At the end of the 80s of the 20th century, the list was expanded by another special crime - torture as a per se crime. Recently, with special conditions, international terrorism was also declared a crime².

Despite the explosion of terrorism on a global level, let's repeat - terrorism does not have a precise definition, not even a roughly acceptable one. Some representatives of the government tend to call all violent activities carried out by their opponents terrorism, while anti-government extremists claim, on the contrary, that they are victims of government terror. The imprecise nature of this

² Quoted by: Kaseze, A., *Međunarodno krivično pravo*, Beogradski centar za ljudska prava, Beograd, 2005, pp. 18–19.

term allows it to be applied, that is, to label all actions that “cause fear in order to achieve various goals.” In the most general sense, it can also be applied to some other similar acts of violence, such as kidnapping and airplane hijackings, for which the perpetrators did not otherwise plan to turn into terror. Political sociologists, unfortunately, believe that a single, universal definition cannot be achieved in principle, because the definition process itself is part of a wider constellation of ideological or political goals.³ Definitional efforts support the argument that perspectives change depending on where and when the terrorists committed the terrorist act. The question of defining terrorism is central to understanding this phenomenon, as well as to the success of measures taken against it. For most observers, any violent act can be classified under the rubric: terrorism⁴. Others, on the other hand, are not inclined or unwilling to call violent activities carried out in a revolutionary context terrorism. Confusion can also arise over apparently similar acts of violence committed by a politically motivated individual, a criminal, or a mentally unbalanced person.⁵

2. VARIOUS FORMS OF THE INTERNATIONAL CRIME OF TERRORISM

Terrorism in modern society is becoming an increasingly dynamic phenomenon, ostentatiously showing all its destructive faces. He acquires different forms, superiorly rising and skilfully evading towards the set goal. The goal shapes the appropriate characters (shapes) of the terrorist act, creates some and neutralizes other aspirations, like a shadow follows the lives of modern man, groups of citizens, certain states, government representatives, etc., so that sometimes we can't even imagine that this world “functions” without the existence of the relevant type of violence. Unfortunately, terrorism has become an inevitable and increasingly widespread phenomenon, the dark side of the increasing modernization and progress of states, their great irrationality. The “forces” that shape his world become completely opaque, mysterious to most of us. A natural characteristic of terrorism is that the victims are treated in a completely impersonal and heartless manner. This, on the other hand, gives rise to the feeling of being lost in the labyrinth of actions of terrorist organizations, the complete helplessness of an individual in the face of the catastrophic consequences that this produces.

But we will not deal with its description. This time, our approach is characterized by a special angle of observing various forms of terrorism as an international crime.

That is why it is necessary to make a couple of introductory remarks at this point and thereby shed light on the relevant issue from a completely new perspective.

The above understanding of terrorism as a type of international crime was not chosen by chance. Namely, it is about the following:

1. Terrorism is one of the three types of international crimes⁶ (in addition to aggression and torture *per se*) that connect to the subgroup of international crimes called

³ See about that: Petrović, D., Pokušaj određenja univerzalno prihvatljive definicije terorizma, *Bezbednost*, no. 1/2014, pp. 23-40.

⁴ Zirojević Fatić, M., *Terorizam međunarodni pogled*, Institut za međunarodnu politiku i privredu, Beograd, 2014, pp. 120-122.

⁵ Ibid.

⁶ International crimes represent violations of international rules that entail the individual criminal responsibility of individuals (as opposed to the responsibility of states on whose behalf individuals can act as their organs). When

2. Other international crimes, two main features: first, the prevailing understanding is that they do not belong to the category that includes the most heinous crimes: war crimes, crimes against humanity and genocide (the so-called “core crimes”).
3. Another, no less important characteristic of them is that they are not under the jurisdiction of any international criminal tribunal or court.⁷

Therefore, ignoring here the reasons that caused such a position, i.e. the reasons for which these are exempted from the extension of international jurisdiction (and they are different for each of these types of war crimes) the majority of states advocate the point of view that terrorism, despite all the limitations of the concept, must be prosecuted at the national level, by individual or joint coercive and judicial action.⁸

We said, ignoring the reasons, because we have already talked about them several times.⁹ But this “stage presentation of the successful fight against international crime” is meant to show, i.e. to show that terrorism would be prosecuted at the national level in case of need, with the concerted action of individual states. Of course, this kind of behavior, accompanied by a convincing argument, dictates a fundamental change in this regard. Let us emphasize that the above opinion, although it seems convincing at first glance, can be contested - if, instead of at the national level, some international judicial body was entrusted with the task of deciding on this form of international crime (in this context, we are also talking about aggression and torture), then this kind of action would achieve positive effects in at least two directions: first, if this crime were under the jurisdiction of an independent international body, the possibility of this type of criminal behavior going unpunished would be removed to a significant extent; second, only in this way would the principle of impartiality of the courts and the fundamental rights of the accused be fully realized (more and

discussing individual categories of those crimes, four unique features must be emphasized that international crimes cumulatively must include:

1. Violation of customary international rules (as well as treaty provisions where such provisions exist);
2. Rules that provide protection to the values that the international community considers important and that, accordingly, bind all states and all individuals. We are talking about the values contained in international instruments, the most important of which are the UN Charter (1945), the Universal Declaration of Human Rights (1948), the European Convention on Human Rights (1950), ... as well as treaties that provide for the punishment and repression of certain forms of terrorism.
3. Then, there is a universal interest in suppressing those crimes. Accordingly, and with appropriate conditions, each state can in principle prosecute and punish those suspected of being their inspirers, instigators or executors.
4. If the perpetrator acted in an official capacity (as a state official), the state on whose behalf he committed the prohibited act cannot invoke immunity from the civil or criminal jurisdiction of a foreign state, which, according to customary law, state officials who act within the scope of their functions (however, in the category of high-ranking officials enjoy full personal immunity) according to: Defined in this way, the scope of international crimes includes war crimes, crimes against humanity, genocide, torture (which differs here from torture as one of the types of war crimes and crimes against humanity), aggression and some of the extreme forms of terrorism (serious acts of international terrorism that are supported or tolerated by the state. The term crime here does not include piracy, illegal drug trafficking and apartheid. Quoted by: Kaseze, A., op.cit., pp. 27-29.

⁷ Kaseze, A., op.cit., p. 126.

⁸ Ibid.

⁹ The decisive argument is that terrorism is not defined precisely enough in intercriminal law, that is, that definition is vague and subject to different interpretations. The following reasons are also cited: introducing that crime would politicize the work of the Court; terrorism, however, is not a serious enough crime to be placed under the jurisdiction of the Court; etc.

better than any national court can do).¹⁰ Unfortunately, more important than that is the fact that some countries still want to solve the issue “by force alone”, i.e. by the use of military force, giving primacy to such a solution over the one that could be provided by international justice?!

Following the basic idea, we concentrate our attention on what gives the general stamp, special and unique essence to various “creations” of the crime of international terrorism.

“Dressed in different cloaks”, the crime of terrorism can appear in various forms of manifestation. However, all these manifestations of it have certain points of contact that connect them as such, which determine its specific inner nature. This fact directs us to consider those characteristic features, exclusively in marking their external differentiation. Thus, this type of international crime and its complex content in its individuality cannot be understood or explained in any other way unless the common denominator is first highlighted or illuminated. i.e. what is basic, essential, what constitutes this phenomenon.

Illuminating the essential ingredients of terrorism is also the real beginning of the explanation and understanding of various forms of terrorism, which we will specifically indicate here.

In this sense, distinct features of terrorism are:

1. **The first**, most important and most significant general characteristic is, according to M. Delmas-Marty, “depersonalization of the victim” (*dépersonnalisation de la victime*).¹¹ The victim of a terrorist act can be anyone - from a child to an old man. In fact, it does not matter to the perpetrator who the victim is - whether she is young or old, male or female, rich or poor, ... (planting bombs in theaters, airplanes, trains, etc.) for him only one thing is important - that the victim be killed, wounded, feel fear, panic and insecurity, precisely with the aim of achieving a certain political, religious, ideological, ... change. The terrorist attacks randomly. For him, the victim is a simple, anonymous and expendable means to realize the goal. Ordinary citizens can still feel safe in the face of “ordinary” crime to a certain extent, convinced that they will not be victims, while when it comes to terrorism, no one can feel safe and protected. Here, the perpetrator does not attack a victim because of belonging to a certain nationality, because of social status, gender, because he hates her, because of certain human, professional, physical, etc. values.
2. **The second**, most noticeable sign is manifested in: in order for a terrorist act to be considered an international crime, it must be related to an armed conflict, international or internal (i.e. a military conflict between two states or two armed groups in one state), to take on such proportions that it crosses the borders of one state and threatens the security of another state, i.e. such a terrorist act must involve state authorities and gain a transnational dimension, or else it must take on the characteristics of behavior defined as a crime against humanity. Explaining this necessity, special reference is made to the provisions of international treaties, from which it is clear that “domestic” terrorism is excluded in their application.¹²
3. **Third**, the fundamental characteristic of terrorism is that it is a criminal offense, regardless of whether it is committed by individuals acting in a personal capacity (eg members of terrorist groups), or whether it is committed by perpetrators acting in an official capacity, i.e. as *de jure* or *de facto* government officials within their functions. It should be emphasized that in this

¹⁰ Ibid.

¹¹ Quoted by: Kaseze, A., op.cit., p. 144.

¹² See, e.g. Article 3 of the UN Convention on Terrorist Bombing of January 12, 1998. Article 3 of the Convention on the Financing of Terrorism of January 20, 2000 contains a similar provision. Quoted by: Kaseze, A., op.cit., p. 145.

second case, in addition to individual criminal responsibility, the commission of crimes of the indicated type by these persons may also lead to state responsibility. So, if the executor acted in an official capacity, the state on whose behalf he acted, i.e. committed a terrorist act, may bear international responsibility for violating international customary rules, as well as treaty provisions (where such provisions exist).¹³

Speaking about victims of terrorist acts, it should be pointed out that international law provides adequate protection for victims of this type of violence. In this sense, we will see that a difference is made in international law regarding the protection of victims - depending on which type of crime the terrorist act falls into, i.e. whether it is a war crime, a crime against humanity or a crime of international terrorism. When a terrorist act is directed against civilians and civilian objects, then it is prohibited as a war crime; as crimes against humanity, terrorist acts are prohibited when they are directed against civilians¹⁴: as a category of international terrorist act, a terrorist act is prohibited if it is directed against any target. But let's dwell a little on each of these forms of terrorism, as a thematic work that will significantly contribute to the elaboration of terrorism as an international crime, shedding light on several issues that deserve to be underlined here.

2.1. Terrorism as a war crime

As stated, terrorist acts directed against civilians or civilian objects are prohibited as war crimes. The prohibition of committing this type of crime in the circumstances that will be discussed is a consequence of the "second evolution". A significant contribution to this process at the normative level was made by the Fourth Geneva Convention (1949), the First and Second Additional Protocols from 1977 and others. It is sufficient to mention Article 33 (1), which prohibits the commission of terrorist acts against civilians who have the status of "protected persons", regardless of whether they are carried out by the armed forces of the warring parties against persons who may be found in the territory of the warring party as internees, or in the occupied territory, as well as the explanation in the already mentioned authoritative Commentary, which specifies how this prohibition arose from the need to prevent the common practice of "resorting to intimidation in order to terrorize the population" in the hope. At the same time, this prohibition of such acts includes civilians fighting alongside one of the belligerents, as well as civilians and organized groups fighting against the occupying forces. (Comment published by the International Committee of the Red Cross (1958)).¹⁵

¹³ See more about that: Ibid.

¹⁴ Here, the question of deviation or disagreement of the stated position with customary law can be raised. Namely, as a consequence of the gradual disappearance of the link between crimes against humanity and armed conflict in international customary law, the insistence on civilians as the only type of victims of these crimes decreased, if not completely disappeared. Since crimes against humanity can be committed in peacetime, the understanding that they can only be committed against civilians makes more sense to us. This leads us to the fact that the scope of customary rules that regulate the matter of crimes against humanity is much wider than it is usually thought. First, in terms of who can do them all (and private persons, provided that the state authorities approve or condone their actions, but that they are an integral part of a broad or systematic practice of illegal behavior), and then in terms of the victims of those crimes. Thus, some categories of victims of these crimes can be both civilians and combatants. Furthermore, the victims of these crimes do not have to be citizens of an enemy country, but also countries whose authorities order, approve or turn a blind eye to illegal actions that have the characteristics of crimes against humanity. Ibid, pp. 104-105.

¹⁵ Ibid, pp. 104-105.

Things are similar when it comes to internal armed conflicts. Namely, even in this type of conflict, acts of terrorism against civilians or persons who have stopped participating in the conflict are prohibited, regardless of whether the party in the conflict resorts to terrorist methods.¹⁶ In the same context, it is sufficient to mention the First and Second Additional Protocols and clearly state the point of view that the crime of terrorism directed against civilians is prohibited and criminalized under International Humanitarian Law, as contained in the treaties.¹⁷ This prohibition also extends to terrorist acts directed against civilian objects, while emphasizing that combatants are also covered by it - although not as war crimes, but as separate crimes of terrorism.

The objective element (*actus reus*) manifests itself in every act of threatening to attack civilians or civilian objects or in the application of some other forms of intimidation aimed at spreading fear and anxiety. The subjective element (*mens rea*) includes the intention to commit a prohibited act or the threat of violence against civilians - general intent. In addition, in order for this act of terrorism to have the features of a crime, another mental element is necessary: the effort to cause the spread of terror (fear, apprehension) among civilians. That additional element of terrorism as an international crime reaches the concept of special criminal intent (*dolus specialis*). In light of what has been said, the spread of terror among civilians must be the primary objective” of the prohibited acts or threats of violence.¹⁸

2.2. Terrorism as a crime against humanity

Here is another form of manifestation of terrorism as an international crime. This time, as a crime against humanity. And again, in the interpretation of this dimension of terrorist activity (which “elevates” it to the indicated degree of international character of criminal activity, it is revealed, as a regularity - that terrorism must be qualified as an international crime, it must meet certain conditions:

1. **first**, that terrorist acts do not represent isolated and sporadic cases, but are usually part of a wider whole, either because they are part of operations on a wider scale and consist of a serious violation of human dignity (a widespread practice), or a connected system of execution illegal acts (systematic practice);
2. **secondly**, that their criminal acts are part of a general and systematic pattern of behavior, i.e. that such a crime is committed as part of a large-scale operation or a systematic practice.
3. **thirdly**, and further, in order for terrorist acts to be classified under the category of crimes against humanity, it is necessary that they manifest themselves as murder, extermination, torture, rape, persecution - or that they belong to some other inhuman acts.

The victims of these crimes can be civilians or if they were committed in the course of armed conflicts, persons who do not participate (or no longer participate) in armed hostilities, as well as under customary international law, enemy combatants.¹⁹

¹⁶ The Geneva Conventions were followed by two additional protocols: see Article 4 (2) (d) of the Second Additional Protocol, as well as Articles 51 (2) and 13 (2).

¹⁷ See more about that: Ibid, p. 62-63, as well as 146.

¹⁸ Ibid, p. 146.

¹⁹ On the contrary, according to the statutes of the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Court, crimes against humanity

We will conclude with: terrorist acts are prohibited and must be punished regardless of whether they are committed during wartime or during peacetime (current international law does not require a connection with an armed conflict).

2.3. Terrorism as a separate international crime

Terrorist acts can also appear as separate international crimes, provided that they meet the following criteria:

1. **first**, that their consequences are not limited to one country, but that they transcend national borders, both in terms of the persons who participate in them, as well as in terms of the means used and the violence shown;
2. **second**, that they are carried out with the help of another state or with the toleration of a state that is unable to eradicate a terrorist organization located on its territory or located in another state;
3. **third**, that it is a phenomenon that represents a threat to international peace and security, and becomes of special interest to the entire international community;
4. The next, **fourth**, criterion is self-imposed: that terrorist acts are very serious or large-scale.

From this point of view, not all acts of terrorism can be classified as such as a separate international crime. On the contrary, justifying the necessity of the existence of all the above-mentioned elements, the lack of only one of them eliminates terrorism from the category of a separate international crime. In those cases, apparently, these acts should be “cumulative”, i.e. to include all four elements or to fulfill all four conditions. Hence, if terrorist acts are undertaken within one country (e.g. the Red Brigades in Italy, or ETA in Spain...), the criminal acts are punishable under the laws of the respective country. In the event that other states have committed themselves to special agreements concluded with those states on cooperation in the search, prosecution and punishment of perpetrators of terrorist acts, they are obliged to act accordingly.²⁰ Unfortunately, national courts apply those treaties selectively, only in rare cases. Most often, their application is subject to the whims of political interests.

As international terrorism is a crime prohibited (first of all) by customary law, every country, due to the violation of international obligations, has the “right and duty” to bring all perpetrators found on its territory to court. Here we are talking about those obligations that can be called obligations towards the community. However, the community’s interest in fulfilling these obligations is potential rather than real. A large number of states continue to seek to be guided solely by their own interests, rather intervening for short-term national interests than to prevent an obvious serious violation of international law.²¹

can only be committed against civilians. Cit. according to: Ibid, pp. 147-

²⁰ See: Resolution of the UN Security Council of September 12, 2001, no. 1368/2001 on terrorist attacks on New York and Washington.

²¹ Let’s quote, again, the Resolution of the Security Council, which calls on all states to „work together and without delay to bring to justice the perpetrators, organizers and sponsors of those terrorist acts... and those who helped, supported and protected the perpetrators, organizers and sponsors of those acts will be held responsible.“ This recommendation, as we know, followed the terrorist acts carried out on September 1, 2001 in New York, Washington (DK) and in Pennsylvania!?

The *actus reus* of the crime of terrorism is:

1. terrorist acts must constitute criminal acts in the majority of national legislations (e.g. murder, bodily harm, kidnapping, hostage-taking, bombing, torture, etc.)
2. spreading terror (fear, apprehension) must be their main goal (e.g. intimidation, threats or taking violent actions against the public or some groups of persons);
3. must be politically, ideologically or religiously motivated - ie. that they are not carried out for personal gain.²²

As for the subjective element (*mens rea*), the practice of a large number of countries, national legal systems and resolutions of many international organizations are on the line of identical treatment. In addition to the subjective element, it is necessary to have a special intention (*dolus specialis*) - which manifests itself in the spread of terror among the population.²³

Finally, this type of international crime can be directed against: civilians and military personnel, but also some other officials (victims of terrorist acts).²⁴

2.4. Types of terrorist crimes prohibited by treaties

Finally, one more type (in the broader sense of the word, because we are talking about separate types) of terrorism as a true international crime remains to be explained. Namely, in order to complete the picture of terrorism as an international crime, we cannot but refer to those terrorist acts that are explicitly prohibited by the already mentioned treaties on terrorism.²⁵ In accordance with the above, and for the sake of a closer and clearer definition of the crime of terrorism, since often only those which are provided for by International Customary Law and which are valued by the basic values established by international circumstances and individual acts of terrorism are classified as international crimes, as real international crimes. We are talking about relevant contracts in this area, which, as such, have a special value outside of their strictly "contractual dimension" (because they rely on customary rules, that is, they point to them or contribute to their creation).²⁶

An overview of the positions taken by the legal systems regarding the definition of the main aspects of the crime of terrorism (regulation of repression) clearly shows that, despite the differences in approach, there is a unified opinion on the way in which these are punished and prosecuted. And that is what is important - and it is affirmed by international agreements on certain types of terrorism. That is why they represent something different and more (than customary international law), i.e. a "step forward" in the direction of preventing and punishing those crimes. Therefore, these treaties have made a step forward in creating such a climate (by establishing coordination among states in the criminalization of those acts), which should ensure that "national authorities punish terrorism

²² Ibid, p. 149.

²³ Ibid.

²⁴ Contracting States may bring before the court a detained person accused of „serious violations“, regardless of his nationality, the nationality of the victim and the place where the violation occurred - the principle of universal jurisdiction.

²⁵ Precisely, beginning in the 1970, a series of treaties against terrorism contributed to the incrimination of a new international crime - TERRORISM.

²⁶ Kaseze, A., op.cit., p. 150

in a timely and effective manner”, that is, that the contracting states clearly undertake to arrest, prosecute and bring to justice the perpetrators of terrorist acts on their territories.²⁷

The trend is clear and should provide guidance for future actions. Unfortunately, cooperation between states in the fight against the crime of terrorism is increasing, but it is still limited. It is particularly regrettable that the obligation to prosecute and punish those crimes has not been entrusted to any international institution.

3. THREE MODELS OF OPERATION

General comparison:

Are the existing legislative solutions appropriate and should they be changed and supplemented, i.e. - within the framework of the existing incriminations in our criminal legislation, can such actions be successfully suppressed or, on the other hand, are appropriate legal interventions necessary?

Giving final answers to the posed question, through a complete analysis of criminal acts of terrorism in a broader sense, is impossible. In other words, based on some kind of personal choice, the basis of which can be seen, we decided at the beginning to include only one part of it, but in a way that will ensure, that is, provoke new dilemmas about the types and methods of fighting terrorism.

In accordance with the aforementioned, different states through different concepts offer different solutions regarding the question - should terrorism be regulated by special or general criminal legislation?

First of all, the starting point in considering the answer to the question is located in the area of possible ways of prescribing this incrimination. And let's say right away that the comparative legislations offer different solutions in this regard:

1. own (special) being;
2. enumeration of other criminal acts (with possible conditioning by the existence of some subjective element);
3. mixed solution.²⁸

The solutions are diverse, with the fact that a greater number of countries that have been significantly threatened by terrorism in recent years have enacted special legal regulations in the area of substantive and procedural law, in the area of law for the execution of criminal sanctions and in police law. Namely, in the action of overcoming the existing extremely unenviable, depressing situation in which they found themselves, certain countries, faced with the real danger of terrorism and the creation of the best possibilities of criminal law in its suppression, decided to enact special legal regulations to include the entire criminal content of terrorism, with the provision that criminal prosecution authorities, law enforcement agencies, the prosecutor's office or some other state authority are given

²⁷ Petrović, D., *Terrorism and Terrorists - Understanding the Structure and Way of Carryinf out Activties*, Tradicija krivično i međunarodno krivično pravo, Srpsko udruženje za međunarodno krivično pravo, Vrnjačka Banja, 2024, pp. 191-197.

²⁸ Stojanović, Z., *Terorizam i srodna krivična dela, Terorizam i srodna krivična dela - teorija i praksa*, Beograd 1998, p. 12.

special powers and responsibilities in dealing with terrorists. The following legislations are in line with this approach: France, which passed the Anti-Burglary Law, Great Britain with its Temporary Law on the Prevention of Terrorism. This tendency is followed by the USA, which in 1996 passed the Law on Anti-Terrorist Actions and the Death Penalty. It is known that this approach was consistently implemented in Spanish and Italian legislation. That would be the first solution.

Another solution is - there is no special law that would "cover" basic and special crimes from this group of crimes. Here, the legislator, precisely with the intention of following world trends in the legislative fight against terrorism, followed the path of adapting the existing instruments to the current needs of successfully suppressing terrorist activity. In this sense, he carries out certain innovations (some changes and some additions) in the conviction that such measures will be able to respond to the urgent demands of society's defense against terrorism.

This concept is also present in our country (Art. 391 of the CC of Serbia).²⁹

Thirdly, one could say - a solution "somewhere in the middle" or if we want, a compromise solution (which is fundamentally unacceptable) approaches this issue by separating all criminal acts of terrorism into a separate chapter (positions accepted in very few legislations). Therefore, there are no special laws, but there are special heads. It is not necessary to prove that such a position is unacceptable for the simple reason that criminal acts of terrorism, including the criminal offense from Article 391, can hardly be brought under only one group protective object, which is the traditional criterion for the construction, i.e. the systematics of a special crime.³⁰

4. CONCLUSION

Due to the fact that there are corresponding "oversights" in deciphering the internal nature of terrorism, it is necessary to emphasize here that it very often (including its criminal element) also includes elements of politics, warfare, and propaganda. Examining their external manifestations, terrorist actions, in some ways and sometimes, resemble war crimes: civilians are attacked, hostages are taken, people are kidnapped and threatened with death... However, until now there has been a lack of policy support for defining a terrorist act as a peace equivalent of war crimes. Of course, that concrete fact sheds a strong light on the interpretation and understanding of the phenomenon that we are investigating and commenting on here. In a broader sense, this fact also sheds light on the nature of the world we live in: the character of the political system, the unequal distribution of power, the various influences of the world's technological, economic, military, political and cultural forces on the positions of certain countries, i.e. the repertoire of changes that in recent years culminated in fierce conflicts between some nations...

²⁹ Criminal Code of the Republic of Serbia, Sl. Gazette of the RS, no. 85/2005, 88/2005 - corrected, 107/2005 - corrected, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016, 35/2019 and 94/2024).

³⁰ Stojanović, Z., op. cit., p. 13.

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MREŽA ZLOČINA MEĐUNARODNOG TERORIZMA - FORME ISPOLJAVANJA -³¹

Dr Dragana Petrović

naučni saradnik

Instituta za uporedno pravo u Beogradu

Živimo u opasnom i nesigurnom svetu, vremenu razarajućih protivurečja i preteće nezvesnosti. A stvarnost kao da je polomila sopstveno ogledalo. Pred našim očima se odvija sukob starih i novih aktera istorije i to sve žešće, sve smrtonosnije. Taj sukob i njime izazvane promene protežu se u celom luku - od novih oblika dehumanizacije, od svog orvelijanskog lika do drugačijih, humanijih formi života, do novih principa na kojima se moderno društvo utemeljuje. U tom i takvom kontrastu, potpuno različite tendencije ogromne snage bore se za prevagu. Od "snalaženja" u tim velikim izazovima zavisi da li će ovaj svet, izložen opasnostima nazadovanja i razaranja, ići ka "svom kraju", ili pak napredovati u pravcu progresivne, srećnije budućnosti. Nažalost, kao da se deo čovečanstva odlučio za ovaj prvi put, put stalne, potencijalne opasnosti, upadljive iracionalnosti, agresivnosti, masovne destrukcije, uživanja u spektaklima nasilja... Neugasiva želja za moći koja svojim uticajem formira izraziti individualizam, ravnodušnost, indiferentost za druga bića, dovodi do "tačke prekida" u kojoj se seku složene i veoma razuđene strukture ovog društva, mesto gde se ukrštaju verske, nacionalne, etničke, socijalne i druge razlike i interesi. Agresivni potencijal koji dobija svoj najviši izraz u ratovima i terorističkim aktima, može da znači samo zatvaranje "paklenog kruga" u kome se i oko koga se sve više vrti hemijsko, biološko ili nuklearno oružje, sofisticirani elektronski ratnici koji prodiru i sabotiraju elektronske sisteme, krvožednija varijanta današnjih terorista načićkana konvencionalnim eksplozivom i dr. I sve to zasnovano na realpolitik načelu da je moć razaranja isto što i moć kontrolisanja i menjanja. I sve to na globalnom nivou. U ovom radu pažnja je posvećena jednom posebnom aspektu međunarodnog terorizma. Upravo, posmatrano sa aspekta aktuelnosti i obima obrade, tu su svoje mesto našla pitanja koncentrisana na ono što daje opšti pečat, osobitu i jedinstvenu suštinu raznim oblicima zločina međunarodnog terorizma. To podrazumeva razmatranje i drugih važnih pitanja koja iskrsavaju u vezi sa odnosnom temom. Tendencija je jasna i ona bi trebalo da obezbedi smernice za buduće akcije (gonjenje i kažnjavanje) u borbi protiv svakog od tih zločina.

Ključne reči: terorizam, međunarodni zločin, vrste, utvrđivanje stanja i organizovanosti u borbi sa njim.

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