

Regulation of terrorism by national and international law acts

Marian ALEXANDRU, Ph.D

„Ovidius” University in Constanta, Romania

marian.alexandru1961@yahoo.ro

Abstract: *The purpose of using terrorism was to induce fright and terror feelings in people, turning into such alarming phenomenon that entailed even damaged relationships between countries. Terrorism is one of the most terrible, active and dangerous threats of the worldwide community. The unusual proliferation of terrorism acts which are severely troubling the public order, deeds of alarming the citizens represents severe antisocial actions, even extremely severe, endangering the entire humanity security. Countries, including Romania, signed international conventions and adopted in their national laws specific regulations useful for fighting against this peril.*

Keywords: *terrorism; law; convention; national and international.*

Introduction

Terrorism is not an invention of the 21st century, even though the September 11th 2001 and March 11th 2004 might create such impression.

The first contemporary legal approach of terrorism was made by Belgium, in 1856, by introducing the provision on assault in the Criminal Code. In the situation where there were more and more acts of violence against European royalty, perpetrators of the terrorism acts – initially considered political fractions – might have had the possibility to elude punishment. The Belgian law states that terrorism acts are not political crimes, so they can be subjected to the extradition procedure, being the first measure in fighting terrorism [1].

Later, most European countries included in their own criminal codes similar provisions, slowly developing into a common attitude in fighting this phenomenon.

1. Evolution of internal and international Laws on Terrorism

The 1st World War was started by an act of terrorism and this moved the international community. The mere violence of fascist organizations between the wars, the use of terrorism as political weapon, entailed the emergency adoption of a legal frame. Romania took the initiative and, by the communication of November 20th 1926, proposed the United Nations to study and work out an international convention for the universalization of the fight against terrorism [2].

Unfortunately, the United Nations didn't take into consideration this proposal, beginning a complex process of clarifying some basic aspects of terrorism in international conferences for unification of the criminal law. The result was a failure caused by the incapacity of member states to agree on defining the political crime or on the exact definition of the terrorism.

After the assault of Marsilia, on October 9th 1934, the Government of Yugoslavia officially notified the Council of the United Nations, by a request for investigation together with a memorandum which presented other terrorism acts previous the assault.

Therefore, the 6th International Conference for unifying the criminal law, held in Copenhagen in 1935, stated a definition of terrorism: deliberate act committed against life, physical integrity, health of official freedoms; any act endangering a community, produces a state of terror aiming at changing public authority or preventing its actions or deteriorating international relationships.

After its creation in 1945, the United Nations became the arena for debates on terrorism after the wars. Now the stress was put on the difference between terrorist and groups fighting for self determination. The famous expression “one man's terrorist is another man's freedom fighter” were a common object of endless discussions (mostly typical for the cold war period) inside General Assembly of UN on terrorism. Despite several resolutions adopted, the language was very precautionary, desiring to preserve the right to self determination. Thus, the 1972 USA proposal on adopting a global convention on terrorism was rejected, and the Libyan representative said that such convention would endanger “the legal fright of people against the colonialism and foreign domination” [3].

Yet, after this episode, U.N. organized an ad-hoc commission for international terrorism. This commission had three departments, one of them focusing on determining a viable definition of the phenomenon.

No common legal definition was accepted, but some elements were to be part of it, such as:

- repressive acts or other violent acts committed by colonial, racist or foreign regimes, against people fighting for their freedom;
- tolerance and support provided by states to organizations, mercenary or fascist groups with activity directly headed towards sovereign states;
- acts of violence committed by persons or groups who menace or suppress innocent people life, threat people rights or freedoms. This doesn't include the fundamental right to self determination and independence of people under colonist or racist regimes or other forms of foreign domination nor the legitimacy of their fight;
- acts of violence done by individuals or groups for private purposes, whose effects are related to a state.

On December 9th 1985, the U.N. adopted for the first time, a resolution condemning acts of terrorism by defining them as criminal acts.

The resolution forced all countries to adopt the necessary measures, on national level, for fast and complete eradication of terrorism. Also, all participants were warned about restraining from organizing, inciting, supporting or participating to acts of terrorism against other states, or from approving this type of activity on their territory. The resolution demanded partnership extension by exchanging of important information. For the first time in history, public opinion officially accepted the idea that terrorism is not the expression of political ideology but pure criminal act [4].

Later, the General Assembly of U.N. ratified other resolutions on terrorism, clearly denouncing its methods and practices, regarding them as criminal and unjustified, no matter the place or perpetrators.

After September 11th 2001, the General Assembly of U.N. and the Security Council adopted in emergency session, in unanimity, very important acts on condemning terrorist attacks against U.S.A, such as resolutions 56/1, 1368 and 1737. The tone of these two acts is the usual one, typical for U.N. resolutions adopted over the years: firm accusation of terrorism, urges to international cooperation on prevention and elimination of terrorism acts, but also the application of antiterrorist conventions.

September 11th 2001 and March 11th 2004, in Madrid, showed the world that countries had no internal legal order appropriate for the current forms of terrorism. Therefore, most of the countries changed their internal legal frames, increasing the repressive attitude and limiting certain freedoms.

2. Terrorism in Romania. Short history

Romania is not familiar to the terrorism. Instead, assassinations of political leaders – beginnings of modern terrorism – knew a firm evolution, helped mainly by the interests of the neighboring states. So, over the years, the plot became a constant of Romanian reality.

The first case of a plot recorded by our history, was in 44 B.D., when the Geto - Dacian King Burebista was assassinated in unknown circumstances, after the plot organized by part of the tribes chiefs [5].

Much later, in December 1476, Vlad Tepeș was the victim of a conspiracy between Romanian boyars and the Turks [6].

One of the most known figures of Romanian history, Mihai Viteazul, ended up as national martyr on August 9th /19th 1601. Given the fact that his unification desires totally opposed the interests of the Habsburgs, the Romanian leader was assassinated at dawn of the same day by a group of chevaliers led by General Basta [7].

On 27th of May 1821, Tudor Vladimirescu, betrayed by part of his men, was called for signing some treaties at the Eteria camp of Golești, but in reality he is murdered outside the town of Tîrgoviște. His body was cut into pieces and thrown into a fountain [8].

The time period between world wars was the time Romania was introduced to terrorism, together with others countries, becoming a political violence target.

It was called the Iron Guard and it was a national right extremist organization of, the only one of our history that can be considered of terrorist nature.

This Iron Guard knew its beginning as a group founded by Alexandru Ioan Cuza in 1923, The Christian League for National Defense, a political group with paramilitary organization.

Within this League, there was an outstanding unit led by Corneliu Zelea Codreanu, who, in 1927, founded a new fascist group called the Legion of Michael Archangel; later, in 1933, they became and remained in history as the Iron Guard; its members, the legionnaires, were led by a captain.

The legionnaire movement had a dangerous and negative ideology based on „*purification by death*”, on exacerbation of mysticism, on promoting hate and intolerance and praising murder [9].

In December 1933, the Iron Guard was made up of 28.000 members and their violence persuaded the Romanian Government to declare them illegal on December 9th 1933. Their reaction was very tough and their leader, Corneliu Zelea Codreanu, published a letter threatening the entire Government with extermination, a warning put into practice on December 29th 1933, when a legionnaire commando assassinated Ion Gheorghe Duca on the platform of Sinaia Station [10].

At the beginning of the personal governing period of Charles the 2nd, on April 16th 1938, Corneliu Zelea Codreanu together with some legionnaire leaders were arrested and sentenced to prison. These measures were based on the authority's investigation which proved the connection between the Nazis regimes of Romania and Italy and also their plans for committing a series of terrorist acts.

On November 30th 1938 Corneliu Zelea Codreanu together with 12 other legionnaires were put to death allegedly for attempt of fleeing while they were moved to Jilava prison.

The execution of the legion leaders resulted in a series of death hysteria. Horia Sima (Corneliu Zelea Codreanu successor at the command of the Guard) organized for the date of January 6th 1939, an assassination attempt against the king and the ministers which accompanied him during the religious procession of throwing the cross in Dambovitza river. But the attempt is discovered and its authors killed in the basements of the State Security on January 4th [11].

38 defendants were tried, 20 of them missing. As a result, most of the legionnaires fled for the fascist Germany where they enjoyed refugee rights and privileged status.

After the 2nd World War Romania passed through the most difficult period of its entire history. The communism changed for good the people destiny. Due to its leaders, terrorism acts were almost inexistent – as severe form of social deviation – they were theoretically absent.

The first attack of this nature happened on Romanian territory on 21st of August 1981, when three young people assaulted a police station, stole arms and munitions and then high jacked a bus full with passengers, asking for the sum of \$30.000 and a helicopter to leave the country [12].

On May 26th 1985, a trap car blew off in the parking space near Grozăvești student facility, in Bucharest, resulting in the death of two anti terrorism active officers, who had tried to diffuse the explosive device. The bomb assault had been set up by the Romanian wing of Muslim Brothers and involved 4 of its members. They had tried to assassinate the Syrian students' leaders, seen as enemies of this group.

A special reference must be made on the events of December 1989, episode of a huge impact on the Romanian society. The truth version of the officials is the in December 1989 took place a spontaneous mutiny of the population against the communist regime, and this mutiny began as the army adhered to the population cause [13].

The records of the Romanian Intelligence show that terrorist organizations, such as Muslim Brothers, Abu Nidal, Hamas and Hezbollah had had active nucleus in Romania, even during the communist regime [14].

3. Romanian legal orders on terrorism acts

The best controlling activity of a negative social phenomenon is an efficient legal system.

Lacking experience, Romania didn't have an appropriate legal frame in this area.

The first legal approach of this reality was its reintroduction in the Criminal Code of 1865 from the one of 1885. Thus, the chapter on “Crimes against the State internal security” *punishes the assault on the king* as a very severe act [15].

The Criminal Code Charles the 2nd of 1936 inherits the approach of the previous laws stipulating that the assault against the king is considered as an act of great treason (art 204), punished by life heavy work. Articles 219, 220 and 221 incriminate the assault or the offence brought, on Romanian territory, to a foreign Head of State or its representative. Art 224 accuses the acts of the person who, on Romanian land, is at war with Romania, as hostility acts [16].

Proliferation of violence acts in the period between wars, led to a more severe prosecution by means of the Criminal Code. Thus, after the actions of the Iron Guard, Marshal Antonescu blamed for the first time the instigation to rebellion by introducing the death penalty [17].

The Criminal Code of 1947, containing big part of the previous one, Charles the 2nd, sets harsh punishment also for “the action of founding and organizing secret societies, ..., with international character or not,” “the action of working, by violent means to produce terror, fright or public disturbance, aiming at changing the economic or social order of Romania”, “the action of contacting a person or association, international or national, to help in any way possible such organization”, “the action of taking any oath besides the one demanded or authorized by the law” [18].

Romania is the first country who proposed the United Nations a plan for a convention to repress terrorism. On November 26th 1926, the Romanians Government proposed the United Nation to draw up a convention on universalization of the terrorism repression, no matter the place of the crime commission, the place where the perpetrator hid or his nationality [19].

This was a real project drawn up by the eminent legal expert Vespasian V. Pella, and it will be the basis for the future conventions on terrorism.

Unfortunately, the Romanian initiative didn't have the envisaged effects. But after 8 years, on December 10th 1934, the United Nations began working on adopting a convention against terrorism. A committee was founded to produce a project of the final convention [20].

The Romanian government insisted on the difference between the fight for national freedom and terrorism, on one hand, and on the other, the social economic and political context where terrorism takes place. As most of terrorism acts took place in capitalist states, obviously, Romania blamed capitalism for it. At the same time it justified other terrorism actions as fight for national identity.

After the communist regime ended, Romania confronted with a lack in the legal system, as the old one was mostly outdated by the new social relationships. The first major step was adoption of the Constitution on November 21st 1991. Thus, article 1, paragraph 1 states that Romania is a national, sovereign and independent state, unitary and undividable, guaranteeing at paragraph 3 human dignity, the citizens' rights and freedoms and human personality [21].

The crime of terrorism focuses exactly on these fundamental social values and for this reason it must be prosecuted and seriously punished by the legal law. After December 1989, our Criminal Code didn't undergo significant changes neither set clear the crime of terrorism.

To be accepted by E.U. or NATO, Romania made significant effort to make sure the internal criminality is efficiently repressed. Given the fact that fight against terrorism grew as central preoccupation of international community, Romania had assure a equal repression of the crime following the line set by the international community.

1995 was the year when such attempt was made. On April 20th, Government forwarded to the Senate of Romania the law project for punishment of terrorism acts, requesting at the same time its adoption in emergency procedure.

The Romanian Association for Defense of Human Rights considered the provisions of this project as a violation of human rights and sent to the Senate Defense Commission and the Judicial Commission an analysis of this law text [22].

September 11th 2001 in New York and March 11th 2004 in Madrid showed the whole world that terrorism is an emergency and it must be given an appropriate answer and its repression becomes the fundamental condition for the democracy existence.

As a result, the Romanian Government issued an Order on the law project of proposed to the Parliament in 1995. Emergency Order no 141/2001 on punishment of acts of terrorism and some public order disturbing crimes is published in the Official Gazette no 691/31st of October 2001.

Emergency Order gives a generic meaning of terrorism, comprising crimes of murder, body injury or severe body injury, crimes of destruction, plane high jacking, bioterrorism, nuclear terrorism, non observance of weapons and munitions regulations together with the threats of carrying out such action.

Critics said the Order should clearly define and describe these actions in separate paragraphs.

Later, after the adoption of Law no 535 of November 25th 2004, on prevention and fight terrorism, this Order was abrogated.

Conclusions

From the above analysis, we consider that the Romanian legal system still lacks in criminal laws that define and punish terrorism.

There are some opinions that say the Romanian law experts should find a mixed solution meaning that some provisions should be present in the Criminal Code, in the Criminal Procedure Code, in the Law of punishment execution while others in special complementary criminal laws.

Here we would have a problem regarding the matter systematizing: which chapter of the Criminal Code should provide the terrorism related crimes?

Therefore, based on the intention of international community to include terrorism in the international crimes category, we recommend it should be placed in a separate chapter of the Criminal Code, more exactly in its special part, representing a solution for settling this highly dangerous manifestation.

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