

**DOI: 10.52363/passa-2024.2-12**

**UDC: 35.336.1; 336.22**

*Zdorovko S. - PhD student of National University of Civil Defence of Ukraine*

*ORCID: 0000-0002-1820-8593*

## **MECHANISMS TO COUNTER THE TERRORISM SPREAD**

*The article describes the development of the counter terrorism mechanisms. The world community's concern about the spread of terrorism is expressed in the desire to unite efforts to counter the common enemy, including understanding the essence and causes, developing conceptual documents to combat terrorism, the threat of which is acquiring transnational features. For the organization of the fight against terrorism, which is a 'constantly evolving system', the formation of its legal foundations is of fundamental importance. Terrorism in the modern world has acquired the image of a global phenomenon that threatens world security, and therefore consolidated efforts are needed to find ways to combat it. The author conducted an analysis of universal international legal conventions developed and adopted under the auspices of the UN, aimed at combating various manifestations of terrorism, as well as the activities of the UN Special Committee on International Terrorism. A characteristic feature of this stage of the international community's fight against terrorism is the listing of specific types of criminal acts of a terrorist nature in all 14 international legal documents.*

*Keywords: international legal documents, mechanisms to counter the terrorism spread, global security.*

Problem setting. Terrorism (including international terrorism), as a socio-political phenomenon, is one of the forms of violent political struggle that violates the basic principles and norms of international law and international morality. From the point of view of the totality of organizational and tactical characteristics, terrorism is violence that is systemic, offensive and mass in nature, using the tactics of unpredictable attacks with the aim of inciting fear, and characterized by the bivalence of the object of influence and/or goal, as well as the method of action.

Due to the inherent nature of international terrorism and the increased public danger, terrorist acts are considered international crimes of a criminal nature. The obvious illegitimacy of the violence characteristic of terrorism places it outside the framework of legitimate means of political struggle and, as a result, no references to the political nature of this violence can serve as a justification for it [2].

The purpose of the article is to analyze the mechanisms to counter the terrorism spread.

Recent research and publication analysis. The problem of mechanisms to combat terrorism is in the area of respect of Ukrainian scientists.

The theoretical basis of the statistics was laid by the teachings of power administration, who discovered the problems of terrorism in general [1-6].

Article main body. In modern international practice of combating terrorism, there is an obvious disproportion of possibilities. The state is denied the right to defend itself. The rights of a group or organization engaged in violent struggle are given an unjustified priority because the forms of response by the state itself are sharply limited by both international and domes-

tic law, while there are no such restrictions with respect to individuals who commit violence, at least for terrorists. At the same time, even now modern international law allows us to quite effectively control the actions of a state that could directly or indirectly cause an outbreak of violence, influence such actions or take retaliatory (preventive or punitive) measures against states that do not comply with generally recognized international legal principles. Thus, the international community acts as an arbitrator, but only in relation to the state, which, in the event of an excessive (primarily from the point of view of international humanitarian law and human rights) response to the actions of terrorists, may be subject to international influence and forced to adhere to established standards in its actions.

In the face of such a grave danger as international terrorism, there are a number of international legal and national measures that a state can and has the right to use to protect itself and its citizens [1]. At the same time, the use of special powers by the state, if it does not wish to sink to the level of terrorists, must be limited within certain limits. First of all, strict restrictions must exist with regard to the intensity and direction of the force used, which is especially important for effectively ensuring the rights of the civilian population in areas where counter-terrorism military operations are being carried out. The main requirement for the use of force by a liberal state is the doctrine of minimum force.

In relation to terrorist methods of waging war, international law allows for movements or organizations to be officially recognized as national liberation movements. Taking this into account, a coordinated position should be developed at the national and international levels on the criteria for classifying an organization as terrorist, the mechanism for declaring it as such (while observing the appropriate mechanisms of judicial protection against possible administrative arbitrariness) and the application of sanctions against such organizations, as provided for by international law and morality.

A comparative analysis of guerrilla warfare and terrorism gives grounds to conclude that as long as the laws of war and the rules of armed conflict are observed, the actions of the party opposing the government should be regarded as guerrilla warfare. As soon as the violation of these rules becomes a strategy, expressed in systematic attacks on innocent victims and the cultivation of fear, this is terrorism and it should be assessed on the scale of war crimes (and according to the classification of international law - as a crime of an international nature) [3]. The border will be drawn along one line - whether or not the laws of war are recognized. If persons who put up armed resistance to the authorities recognize such laws and follow them, then they deserve to be treated as political opponents; if they deny them, then their treatment should be accordingly - as war criminals: no political negotiations, except from the standpoint of criminal law, their associations are illegal and prohibited, and any assistance to such organizations or persons (even if not aimed at committing a specific crime) is recognized as aiding and abetting a crime.

The main cause of international terrorism is made up of three interrelated factors:

- the presence of certain (possibly partially justified and justified) power aspirations among individuals, groups of individuals or organizations, when these aspirations conflict with the interests of the existence and self-preservation of the state;
- the extremist ideology of a given person, group of persons or organization, combined with the denial of all moral and legal norms that hinder the realization of the corresponding aspirations;
- the deliberate choice of terrorist violence for the mass propaganda of one's aspirations

and as the most effective weapon in the struggle for power with the opponent - the state.

In the most general form, it is proposed to differentiate approaches to control over international terrorism according to functional characteristics into preventive (prevention of acts of terrorism), regulatory (elimination or mitigation of problems by political and legal methods) and repressive (deterrence of crime, suppression of crimes and punishment of criminals). This classification generally reflects various facets of the complex nature of terrorism: the criminal-repressive one is focused on the specifics of terrorism as a crime, the functional-repressive one is aimed at its military component, and the political-economic one is focused on its essence as a phenomenon of socio-political life, a form of political struggle. And finally, preventive measures (in a broad sense) are aimed at preventing all the above-mentioned manifestations of terrorism [4].

In substantiating the long-term strategic and tactical tasks of counter-terrorism activities, it is advisable to change the conceptual approach to the concept of a counter-terrorist operation, bearing in mind a set of long-term actions subordinated to a single plan and strategic goal, aimed at eliminating the causes of terrorism and the conditions that contribute to its development. Moreover, taking into account not only the repressive but also the preventive nature of the relevant activity, it would be most appropriate to use the definition not 'counter-terrorist' but 'anti-terrorist' operation. In such a case, anti-terrorist operations could be differentiated, first of all, by scale - into national and regional, by objects of influence - within the framework of their solution of problems in relation to a certain group of subjects (terrorist organizations, foreign intelligence services, lone terrorists, various subjects directly connected with terrorist activity or providing support to it, criminal groups) or in a certain area of public relations (in financial, socio-political, foreign policy, military-political, etc.)

The strategy of countering terrorism as an unconventional form of political activity provides for the need to develop a nationwide system of forecasting and regulating socio-political conflicts at an early stage as part of a unified state system of countering terrorism and extremism, including not only law enforcement, but also social, economic, political and propaganda aspects.

Terrorism is a pluralistic set of creative subjects of globalization participating in political action, adapted to the contradictions of the modern, vast, unstable world and skillfully using these contradictions. The forces of terrorism are in constant motion and form the most diverse combinations of singularities and events, forcing the system of counteraction to terrorism to constantly change on a global scale. This continuous movement can be territorial, but it can also be directed towards changing forms and processes of mixing and hybridization. The relationship between the 'system', i.e. the counteraction to terrorism and 'extra-systemic movements' (meaning the bearers of terrorism and their actions as an unconventional form of political activity), cannot be smoothed out by any logic of correspondence in this constantly changing atony [5].

Terrorism is unlawful violence or the threat thereof, committed by an individual or a small group acting independently and aimed at achieving a social or political goal, which may be national, transnational or international in nature. Without violence or the threat of it, there is no terrorism. Another basic feature of terrorism is also recognized: its ability to generate fear in society, to intimidate the population in order to achieve certain political goals. In addition to the violent and intimidating aspect, terrorism is represented by other aspects (organizational and ideological-political) that guide the activities of terrorists.

Differences in approaches to defining terrorism are explained by differences in public and state systems, the presence of different schools of law, and the complexity of the subject of regulation, which is at the intersection of various branches of international law. At the same time, the transformation of terrorist threats into a global phenomenon threatening world security requires the consolidation of efforts to find a generally accepted definition of terrorism.

Terrorism poses a serious threat to democracy in Europe, and the understanding of the threats forces Europeans to join efforts in the fight against it. The EU's activities play a central role in creating the international legal foundations of the European security system against terrorist threats, because one of the main goals of the Union is to create an area of freedom, security and justice. Within the EU, a whole system of specialized counter-terrorism bodies has been formed to counter terrorist threats: Europol, Eurojust, the Police Working Group on Terrorism, and the post of EU Coordinator for Counter-Terrorism Activities has been introduced. At the same time, the EU is trying to stimulate anti-terrorist activities by political and legal means, issuing acts that have political and legal characteristics: The Action Plan to Combat Terrorism (2001), the 'Declaration of Solidarity' on the fight against terrorism (2004), Strategy for Combating the Financing of Terrorism (2004), Counter-Terrorism Strategy (2005). In addition, one of the manifestations of the legal sphere of the fight against terrorism in the EU are legally binding acts adopted by the EU Council - decisions and framework decisions (the decision on the introduction of a single European arrest warrant, the decision on freezing the assets of terrorists and terrorist organizations, the decision on cooperation between the Union's law enforcement agencies in the operational exchange of information in the fight against terrorism, the decision on the inclusion of biometric data in the passports of all citizens of EU member states, and others).

The OSCE plays a significant role in consolidating efforts to combat terrorism. The growing wave of terrorist crimes led this organization to the understanding that the global problem of security from terrorism must be addressed not only on a European but also on a global scale. The OSCE's comprehensive approach to security, its organizational flexibility and broad membership give it certain advantages in countering terrorism and confirm its value for the security of its participating States [1].

A characteristic feature of the OSCE normative and legal documents on combating terrorism adopted before 2001 is their declarative nature (final documents of summit meetings, various action programs, etc.). Following the tragic events of September 11 in the United States and the terrorist attacks in Europe, the organization's documents (the Bucharest Plan of Action to Combat Terrorism of 2001, the Bishkek Program of Action of 2001, the Charter of Anti-Terrorist Cooperation of 2004, etc.) persistently called on member states to act as a 'united front' against the 'scourge of the era' – terrorism. In pursuance of the provisions of the documents, the OSCE seeks to form an institutional structure designed to assist in the fight against terrorism. An Anti-Terrorism Unit was established, the main function of which was to support Member States in combating terrorism and eliminating the conditions that generate and fuel it, as well as to improve existing mechanisms of cooperation between Member States and various international organizations and initiatives. The establishment of the OSCE Counter-Terrorism Network is intended to ensure the timely exchange of information on counter-terrorism programs, personnel training and changes in the legal sphere, implemented at the initiative of the OSCE and the participating States of this organization.

NATO is actively involved in solving international problems. It is the main organization

of the transatlantic alliance, where the leading role is played by the United States. The fight against international terrorism is an important aspect in the activities of the North Atlantic Alliance, which has a powerful military potential capable of adequately responding to terrorist threats. The permanent Transatlantic Consultative Forum discusses security-related issues. NATO is a catalyst for the processes of expanding security and stability in the Euro-Atlantic region.

The EU demonstrates a desire for partnership relations with NATO, emphasizing the commonality of strategic interests in the Euro-Atlantic security zone, declaring close cooperation in the area of combating terrorism, which is expressed in the adoption of documents that have the character of 'soft law' norms (the 2004 Joint Declaration on Combating Terrorism), traditional normative legal acts (EU Council decisions, EU Commission communiqués, etc.). It is also worth noting the relatively new forms of relations between the EU and the US, which have different legal character due to the different goals pursued (a package of agreements on extradition and mutual assistance on issues of extradition of criminals, mutually compatible trade security standards for the control of transported hazardous goods, their transportation, the exchange of information related to such risks, the study of various trade programs of the partnership, as well as the implementation of cooperation in the customs sphere, etc.)[ 6].

Conclusions. Based on the above, it is possible to formulate measures for the effective functioning of the national system of combating terrorism in Ukraine, which depend on the consolidated implementation of the system of measures in the following directions:

- timely introduction of changes and additions to the current legal framework, which should ensure meaningful identity of the main concepts in current laws and the Criminal Code of Ukraine;
- clarification of the content and essence of the concepts 'terrorism', 'terrorist activity', 'terrorist act';
- improvement of the legal framework in the field of combating extremism through the legal definition of the concepts of 'extremism' and 'extremist activity';
- optimization of the system of legal measures to prevent and stop the activity of terrorist subjects and their supporters;
- development of administrative-legal and criminal-legal measures of responsibility for acts of a terrorist nature or those that contributed to the implementation of terrorist activities;
- development of the administrative and legal toolkit of responsibility of the subjects of anti-terrorist response, which directly carry out such activities or participate within the limits of their competence;
- improvement and further development of the mechanisms of interdepartmental coordination and interaction of the responsible entities in the fight against terrorism by clarifying the competence of the central executive bodies participating in this activity within the limits of their competence;
- implementation of parliamentary control over the process of development and implementation of plans and programs in the field of combating terrorism with the direct participation of the specialized Committee of the Verkhovna Rada of Ukraine;
- strengthening the information and coordination activities of the Anti-Terrorist Center by activating the information-analytical and scientific-methodical directions of its work;
- ensuring greater openness and public nature of the activities of the Anti-Terrorist Center under the Security Service of Ukraine for the implementation of preventive measures in the



fight against terrorism;

- improvement of the strategic planning process by developing political and programmatic documents in the field of combating terrorism;

- improvement of the process of state administration by shifting the center of gravity to the identification and neutralization of dangerous social factors to reduce the level of terrorogenicity in society;

- adjustment of the state anti-terrorism policy based on the analysis of the real state of the threat of terrorism in Ukraine;

- concentration of material, technical and financial resources on the priority areas of ensuring the activity of counter-terrorism entities, implementation of a balanced personnel policy.

### **References:**

1. Шемшученко Ю. С. Державний суверенітет і правова держава К.: Віче, 2010. 16 (277) . С. 2–3.
2. Шкурат І.В. Глобальний тероризм: методичні підходи до вивчення. Державне управління: теорія і практика. 2005. № 2. URL: <http://academy.gov.ua/ej/ej2/txts/pol-prav/05sivmpv.pdf>
3. Agreement on the Procedure for Organizing and Conducting Joint Anti-Terrorist Exercises by Member States of the Shanghai Cooperation Organization of August 28, 2008. URL: <https://www.fidh.org/en/issues/terrorism-surveillance-and-human-rights/Agreement-on-the-Procedure-for>
4. Terrorism and public health: a balanced approach to strengthening systems and protecting people, edited by Barry S. Levy, Victor W. Sidel. Oxford: Oxford University Press, 2007
5. Imagining Terrorism: The Rhetoric and Representation of Political Violence in Italy 1969–2009 by Pierpaolo Antonello, Alan O’leary. MHRA, 2009.
6. Proposal for a Directive of the European Parliament and of the Council on Combating Terrorism and Replacing Council Framework Decision 2002/475/JHA on combating terrorism COM/2015/0625 final – 2015/0281 (COD). URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52015PC0625>