



LEGAL CONSEQUENCES OF THE CRIME OF TERRORISM

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Article history:		Abstract:
Received:	1 st January 2024	The article examines topical issues of the problem of terrorism in criminal law, which are of a debatable nature: the interpretation of the main terms most often used in the process of researching the problem, their reflection in criminal and other federal legislation.
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INTRODUCTION

The last two decades have been marked by global social, economic and political changes, usually of a negative nature, in our long-suffering Homeland and on our planet as a whole. They touched upon the fundamental foundations of socio-economic relations, the relationship between "those in power" and the people, between social groups, international relations, the spiritual life of people, their ideology and daily life. Together with the "orange" lawlessness of freedom, the process of democratization of society imposed on the world according to the American model and the destructive "perestroika", such iconic manifestations have entered our lives. Evil, such as striking material inequality and actual inequality with formally proclaimed equality; exploitation and poverty of workers and entire peoples; blatant injustice; devaluation of people's lives and their safety. The praises of national and religious extremism, contrary to common sense, sounded insistently, alarming the hearts of people, zombifying the inexperienced and naive; acts of terrorism, which have acquired a large-scale and transnational character, have become habitual.

In our unipolar world, State terrorism has begun to be practiced. The disrespect of representatives of one civilization for the social values of another civilization began to provoke wars and terrorism in peacetime.

When conducting research on terrorism, it is necessary to agree on terms. For example, to define such concepts as "terrorism", "terror", "terrorist activity", "crimes of a terrorist nature", etc., to establish the relationship between these concepts.

The definition of terrorism is based on the concept of "terror" (from Latin. terror – fear, horror). This term already has a psychological content in its most etiological meaning. But a state of fear or horror is the result of someone's external behavior that causes this stressful state in other people. Therefore, "terror can be defined as the intimidation of one's political opponents, expressed in physical violence, up to the point of destruction, and severe intimidation." In other words, "terror" is the extreme, most severe form of manifestation of acts of violence, other physical or mental effects on the victim, aimed at intimidating her, intimidating her, and not only the policy of repression by the state, based on the power of its law enforcement institutions, as E.P. Kozhushko writes about it [3, pp. 9-10] whose weapon is repression*. These are the weapons themselves, which are stressful in nature. This is a peculiar form of activity that is intermediate in nature and closes on achieving a certain stressful state.

Terror is a necessary component of terrorism, i.e. a complex activity in which a person seeks to achieve a specific long-term goal by intimidating the enemy directly or indirectly through intimidation of the population.

The term "terrorism" is interpreted as a policy and practice of intimidation, intimidation of opponents through violence, physical destruction, threat of violence and other coercion to achieve a political or other goal (for example, obtaining material benefits).

In terrorist activities, terror is used only because it is capable of sowing a state of fear and anxiety in society, leading to the fact that the "client will mature" and become compliant. The most cruel and effective method of influence associated with unlawful violence is chosen.

In Part 1 of Article 3 ("Basic concepts") Federal Law No. 35-FZ of February 26, 2006 "On Countering Terrorism" defines the latter as "the ideology of violence and the practice of influencing decision-making by state authorities, local governments or international organizations related to intimidation and (or) other forms of illegal actions." An important component of terrorism that has made it "in demand" is propaganda the effect of creating fear among the population, which increases the possibility of influencing decision-making by these bodies through motivated unlawful violence. Terrorism is based on the desire of a person to sow fear and panic in others, other people, to paralyze the normal functioning of government and management bodies, socially useful activities of citizens in order to achieve their antisocial goals.

Terrorism, as a rule, is committed to achieve political goals. P.A. Kabanov even defines political terrorism, considering it as "a set of violent criminally punishable acts committed by political actors in order to change, terminate the activities of constitutional state authorities, senior officials of a national or foreign state, or prominent political figures (...), or changes in the external or internal borders of the state..." [8, p. 11]. The value of this definition is minimal, since it did not find a clear reflection of the main signs of terrorism as a relevant phenomenon and activity.

The concept of "terrorism" has a collective character. Russian Russian is undoubtedly right, T.B. Isayeva, pointing out that the suffix "ism" gives the meaning of words in the Russian language a generalizing meaning. Following the logic of the Russian language, she writes, "terrorism is a complex generalizing concept that denotes not an action or even a sum of actions, but a certain phenomenon of our social and state life" [9]. Terrorism, according to the author, is a multi-structured ideological, political, social phenomenon in society aimed at destroying the existing state and political system of the country and using the most socially dangerous illegal methods and means to achieve its political goals [9]. The author gives a definition of international terrorism similar in its main characteristics, highlighting in it only the orientation of this phenomenon towards the destruction of the existing international state-political and civilizational system [9].

Of course, terrorism is a systemic phenomenon that combines ideological, political, moral and value, psychological, ethno-cultural and other subsystems. However The author's reference to the terrorist's desire to achieve "political goals" significantly narrows the nature of this social phenomenon, and the general indication of the use of "the most socially dangerous illegal methods and means" does not give grounds to assert that the author included in this definition such mandatory signs of terrorism as terror.

From these positions, the definition of terrorism proposed by M.A. Komarova seems to be more successful, in her opinion, it is "a systematic politically or socially motivated, ideologically justified use of violence or threat of violence, through which, through intimidation of individuals, their behavior is controlled in a direction beneficial to terrorists in order to achieve their goals".

Less successfully, the author defines this concept from the point of view of criminal law, recognizing as such "a gross violation of the rule of law, a socially dangerous act committed using extreme forms of violence" [10]. Such a broad and largely vague description of the criminal law concept of terrorism makes it possible to attribute acts that have nothing to do with it.

In the current criminal legislation Russia, as you know, does not have a definition of terrorism, but only the concept of terrorist is formulated the act (art. 205 part 1 of the Criminal Code of the Russian Federation). This is correct, because terrorism is not a separate act of behavior, but an activity, i.e. a system of acts of a terrorist nature, among which a terrorist act is a separate form of manifestation of terrorism.

A terrorist act is a special, most serious type of terrorist activity and crimes of a terrorist nature. Its type is an encroachment on the life of a state or public figure (Article 277 of the Criminal Code of the Russian Federation), which was called a terrorist act in previous criminal legislation. The provisions provided for in Article 277 of the Criminal Code constitute a special norm in relation to those normative provisions contained in Article 205 of the Criminal Code. It follows from this:

- 1) in the competition of these criminal law norms, preference is given to a special norm;
- 2) in the case of a murder specified in Article 277 of the Criminal Code of the victim for the specified purpose, committed in a generally dangerous way, the deed should be qualified according to the totality of crimes provided for in Articles 277 and paragraph "b" of part 3 of Article 205 of the Criminal Code;
- 3) the expediency of supplementing Article 277 of the Criminal Code with part two, in which, in particular, it should be indicated as a qualifying feature of this crime that its commission is generally dangerous in a manner ("by explosion, arson or other actions that intimidate the population and create a danger of death ...").

The Federal Law on Countering Terrorism of February 26, 2006 defines the types of terrorist activities, among which it indicates:

- a) the organization, planning, preparation, financing and implementation of a terrorist act;
- b) incitement to a terrorist act;
- c) the organization of an illegal armed formation, a criminal community (criminal organization), an organized group for the implementation of a terrorist act, as well as participation in such a structure;
- d) recruitment, arming, training and use of terrorists;
- e) information or other assistance in the planning, preparation or implementation of a terrorist act;
- (e) Propaganda of terrorist ideas, dissemination of materials or information calling for terrorist activities or justifying or justifying the need for such activities.

The analysis of the types of terrorist activity (terrorism) indicated in this normative legal norm indicates that the legislator included in the composition of such activities groups of negative acts of behavior that differ in their independence, place and role in the system of its constituent acts, as well as the legal nature:

- 1) independent types of terrorism provided for by criminal law – a terrorist act as its main and most serious type (Article 205 of the Criminal Code), the organization of an illegal armed group or participation in it (Article 208 of the Criminal Code), the organization of a criminal community (criminal organization) or participation in it (Article 210 of the Criminal Code);
- 2) auxiliary types of acts contributing to the commission of terrorist acts, which are covered by a broader criminal law norm provided for in Article 205 of the Criminal Code, and could be considered as stages of committing a terrorist act or types of complicity in it - organization, planning, preparation, financing and implementation of a terrorist act,

incitement to it; organization specified in paragraph "in" Part 2 of Article 3 of the Law, types of organized crime, including organized groups, for the implementation of a terrorist act, as well as participation in such a structure; information or other assistance in the planning, preparation or implementation of a terrorist act;

- 3) auxiliary types of acts that contribute to the existence and development of terrorist activities are the recruitment, arming, training and use of terrorists, propaganda of terrorist ideas, dissemination of materials or information calling for terrorist activities or justifying or justifying the need to carry out such activities.

The analysis of the structure of terrorist activity in the Federal Law of February 26, 2006 gives grounds to assert that the position of the legislator on this issue is not logical and does not correspond not only to domestic (national) criminal legislation, but also to international law.

Thus, the inclusion in the system of acts that collectively constitute terrorist activity or terrorism as an activity, along with the main acts (terrorist act) of an autonomous nature, actions that are not directly included in the content of the first, but only contribute to the existence and vital activity of terrorism as a system of act (propaganda of ideas of terrorism, dissemination of materials or information, calling for the implementation of terrorist activities or justifying or justifying the need for such activities, etc.), makes such the system is amorphous, indeterminate, unsuitable for both functioning and study.

The legislator considers it possible to define in the structure of terrorist activity such independent acts as the organization of an illegal armed formation, a criminal community (criminal organization) or participation in them, which in themselves are types of organized criminal activity, however, indicating that these structures are created only for the implementation of a terrorist act. This suggests the need to supplement the Criminal Code with norms on responsibility for the organization of a terrorist organization and its activities or participation in it, as independent types of such activities. This step by the legislator would be very appropriate, given that an important feature of modern terrorism is a clear structure and organization.

Terrorist organizations create unified governing bodies, a management system, planning units, establish information and propaganda support, work on the selection and training of supporters, active functionaries and militants, etc. Finally, responsibility for organizing a terrorist organization and its activities is no less important than the existing responsibility for organizing an extremist community (Article 282.1 of the Criminal Code of the Russian Federation) and the organization of the activities of an extremist organization (Article 282.2 of the Criminal Code of the Russian Federation). As emphasized in the Concept of Countering Terrorism in the Russian Federation of the Russian Federation, among the main trends of modern terrorism are: "increasing the level of organization of terrorist activities; the creation of large terrorist formations" and "strengthening the relationship between terrorism and organized crime, including transnational (art. 1 Part 1. paragraphs "d" and "d" of the Convention).

In addition, the system of terrorist activity presented in Part 2 of Article 3 of the Federal Law on Countering Terrorism does not correspond to what is provided for in Article 205. of the Criminal Code of the Russian Federation, which shows:

- 1) crimes provided for by Article 205, 206, 208, 211, 277, 278, 279 and 360 of the Criminal Code, represent independent types, and together – a system of criminal terrorist activity;
- 2) such auxiliary activities as inducement, recruitment or other involvement of a person in the commission of at least one of these crimes, arming or preparing for them, as well as financing terrorism, are referred to as acts that facilitate terrorist activities. The noted discrepancies made by the legislator in the understanding of the term "terrorist activity" ("terrorism") seem significant and require elimination by making appropriate amendments and additions to the Federal Law on Countering Terrorism.

The same systematized law of Russia should also be:

- 1) add a subsystem of criminal law norms on responsibility for terrorist activities ("crimes of a terrorist nature") in editions corresponding to the general definition of terrorism and including all the main objective and subjective signs, as well as norms on responsibility for facilitating terrorist activities;
- 2) formulate in it, as crimes of a terrorist nature, the norms on responsibility for the organization of a criminal community (criminal organization) and the organization of the activities of such a community (such an organization), refusing to include the crime provided for in Article 208 of the Criminal Code of the Russian Federation among crimes of a terrorist nature, since in itself it does not contain the main signs of terrorism, which are the basis of its legislative definition, which, however, also needs correction.

Based on the above considerations, when defining terrorism as the initial theoretical and legislative basis for establishing the range of acts constituting a system of crimes of a terrorist nature, formulating specific types of such crimes and establishing the range of criminally punishable acts and administrative offenses that facilitate terrorist activities, it should be taken into account that:

- 1) terrorism is both a phenomenon in which social, ideological, political, moral, value and psychological components are combined in a system, and an activity in which terrorism is realized as a phenomenon;
- 2) terrorism in the criminal law sense is, of course, an activity based on terror as a form of committing acts and a method of achieving a certain political or other socially negative goal: the form of acts is violence, up to destruction, severe intimidation, other physical or mental effects on the victim expressing the commitment of the culprit to extreme measures; the method of such activity is intimidation and demoralization of society or the international community;
- 3) terrorism is an activity aimed at exerting pressure on decision-making by authorities or an international organization, achieving a more distant, ideologically motivated goal through social intimidation;

4) terrorist activity, as a rule, is characterized by publicity, demonstrativeness of the commission of appropriate acts of behavior;

5) the purposefulness of such activity gives grounds to assert that it is carried out with direct intent. This circumstance does not allow the use of the terms "terrorist activities" or "terrorist crimes", which are often found in the scientific literature, instead of the terms "terrorist activities" or, accordingly, "crimes of a terrorist nature". It is "terror" as a method of achieving a goal that gives a person's activity a terrorist character;

6) terrorist activity can only be considered as a system of crimes of a terrorist nature when the relevant acts are prohibited by the criminal law of the State and (or) relevant international normative legal acts;

7) the terrorist nature of crimes, their commission in a generally dangerous or otherwise dangerous way that threatens the most important interests of society, the state, and the international community, indicate that the main objects of such encroachments are public, national (State) security and law and order in the country or international security and world order.

The Concept of Countering Terrorism in the Russian Federation emphasizes that the national system of countering terrorism "is aimed at protecting the fundamental rights and freedoms of man and citizen, ensuring the national security of the Russian Federation" (Article 2, Part 6 of the Concept).

In the era of globalization, terrorism is losing its "national face" due to the active involvement of a foreign element, and therefore the line between national and international terrorism is blurred. However, this does not mean that it is necessary to support the recommendations found in the legal literature on combining in one section or even in one chapter of the Criminal Code of the Russian Federation all crimes of a terrorist nature, which is possible and, obviously, even desirable to do in the Federal law on countering terrorism, but not in the Criminal Code, since in one section, especially in one chapter, it is unacceptable to place norms on responsibility for crimes encroaching on various objects [public safety, state (national) security or international security, etc.].

The comments made on the nature and characteristics of terrorism in criminal law make it possible to develop an acceptable definition of a terrorist crime or crimes of a terrorist nature at the national and international levels

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