

EU's Role in Fighting Terrorism

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Abstract. International terrorism, a phenomenon with constant development, is today a certainty and has dramatically marked the beginning of this century and millennium. This problem has reached a global dimension and it represents a concern to the entire international community. Over the time, numerous international and regional regulations have been framed, in order to prevent and combat terrorism. The European Union condemns terrorist acts and recognizes the central role of the United Nations, in fighting against terrorism and promoting security, as well as the contribution of the new NATO in what concerns the defense and security promotion. Europe has to act more firmly in order to consolidate the defense against terrorism and the European Union's borders. At the same time, the European Union considers that only a concerted and firm action from all the states and the major actors on the international scene would lead to the identification of the solutions which can contribute to the efficient fight against terrorism and, by these means, provide for the international peace and security. The proportion of the danger terrorism represents has turned the fight against this phenomenon in an international community's desideratum.

Key Words: criminal international law, international cooperation, NATO, security.

1. Introductory considerations

International terrorism is one of the most debated issues in the last few decades, but also one of the most argumentative. Several jurists, politicians, researchers from different fields- sociologists, political scientists and economists - have sought to identify the essence of the terrorist phenomenon, by studying its causes, forms of manifestation and formulating the characteristic features that individuate it.¹

Terrorism is not a 'creation' of the modern era, is as old as the first violent act in the history of humankind² and even if it has been used since the beginning of history³, it is quite difficult to define.⁴ This difficulty could relate, according to a Romanian author, to the fact that terrorism could not be defined as being a phenomenon in its essence.⁵ A study in 1988 counted 109 definitions of terrorism, that refer to 22 different characteristic features⁶ and in 1999, the American terrorism expert Walter Laqueur counted over 100 definitions and concluded that "the only general feature admitted is that terrorism implies violence and threatening with force".⁷ A relatively recent analysis counts over 240

¹ Duculescu, Victor, Introductory Study on the paper « *International terrorism- scourge of the contemporary world* », authors: Popescu, Ilie; Popescu, Nicolae; Rădulescu, Nicolae, Ed. Ministerului administrației și Internelor, Bucharest, 2003, p.9

² Ferchedău-Muntean Magda *et alii.*, *Terrorism.History, forms, fight. Study collection*, Ed. OMEGA, Bucharest, 2001, p.7

³ "When did everything start? Some say a thousand and three hundred years ago, when Prophet Mohammed received the Koran knowledge. Some say that began with the first crusade, initiated by Pope Urban the second in 1095. Others say that it began with the disappearance of the Ottoman Empire in 1918. Some say it began together with the French and British imperialism exerted in the Middle East. Some say it began with the discovery of oilfields in Saudi Arabia and the set up of an Arab American oil company in 1943. Some say it began with the Declaration of Independence of Israel in 1948. Some say it began with the Iraq invasion in Kuwait that led to the Gulf War, followed by an embargo that proved to be devastating for the Islamic population of Iraq. Some say that it began with the set up of secular repressive governments, in the Islamic countries in Middle East and North Africa that supported activities by excluding the dissidents from dialogue."- Williams, Paul L., *Al Qaeda- Terror Fraternity*, Ed. Lucman, Bucharest, 2004, pp.244-245

⁴ <http://www.terrorism-research.com/>

⁵ Bodunescu, Ion, *Terrorism- global phenomenon*, Casa Editorială ODEON, Bucharest, 1997, p.14

⁶ Schmid, Alex P.; Jongman, Albert J. *et alii.*, *Political Terrorism: A New Guide to Actors, Authors, Concepts, Data Bases, Theories, and Literature*, New Brunswick, NJ:Transaction Books, 1988, pp. 5-6

⁷ Laqueur, Walter, *The New Terrorism: Fanaticism and the Arms of Mass Destruction*, New York: Oxford University Press, 1999, p. 6

definitions of terrorism.⁸

The term “terrorism” was used for the first time at the second Criminal Law Harmonization Conference in Brussels in 1930 and was defined as being the “international use of certain means, capable of causing danger, represent acts of terrorism that consist in crimes against the life, freedom and physical integrity of a person or are directed towards private propriety or a state.”⁹

According to the studies that have been made by Terrorism Research Centre, institute founded in 1996¹⁰ and dedicated to terrorism research, terrorism was defined several times and being tactic and strategy, crime and scare duty, justified reaction to oppression, unforgivable horror.¹¹

The “Encarta 2003” Encyclopedia considers that terrorism would represent “the deliberate creation and exploitation of fear in order to obtain a political change” and that “every terrorist acts imply violence or- which is likewise important- threatening by force”.¹²

Each of these definitions has been disputed, criticized, completed but none of them was unanimously accepted. One of the arguments that could provide an explanation for the difficulty in defining terrorism and the controversies in this context could be the fact that the term’s meaning has changed several times along history.¹³ Another explication could be that some states make it difficult to reach an agreement and by this the process of fighting terrorism is slowed down.

2. Terrorism- international crime and changing phenomenon

Terrorism is deeply rooted in history¹⁴ and is permanently changing.¹⁵ Terrorism has suffered important mutations along history but the essential transformations of the last years of 19th century, and especially from the 20th and the beginning of the 21th century are so complex and radical, that we can asses that today we are facing a very particular phenomenon and we can argue that we are facing the end of classic terrorism.¹⁶

Although it maintained the characteristic that refers to the “calculated use of illegitimate violence or illegitimate threat by force to induce fear...”¹⁷ it has also acquired the feature of being the dominant strategic instrument of terrorists.

In order to place these changes in a certain context, studying the historical evolution of terrorism is necessary but the consecrated scope of this aspect does not allow us but a short analysis.

Starting from the 17th century and the events that shocked the Persian caliphate¹⁸ terrorism has developed new forms and dimensions, new types of approaches, has adapted to challenges on order to respond the new forms of conflicts but also to be able to use the means offered by science and new technology.

The globalization of communications means, the information explosion led to a process of “internationalization” of terrorism, which thus became an omnipresent threat: “*the acts of war of September 11/2001 against the United States went beyond the usual terrorism. A true strategic and*

⁸ Pivariu, Corneliu, *Terrorism. From local threat to global danger*, Ed. Pastel, Brasov, 2005, p.28

⁹ Popescu, Ilie; Popescu, Nicolae; Rădulescu, Nicolae, *International terrorism- scourge of the contemporary world*, Ed. Ministerului Administrației și Internelor, Bucharest, 2003, p.9

¹⁰ <http://www.terrorism.com/>

¹¹ <http://www.terrorism-research.com/>

¹² http://encarta.msn.com/encyclopedia_761564344/Terrorism.html

¹³ Ferchedău-Muntean, Magda *et all.*, *op.cit.*, p11

¹⁴ Diaconu, Dumitru-Virgil, *Terrorism. Judicial and historical marks*, Ed. All Beck, Bucharest, 2004, p.1

¹⁵ <http://www.terrorism-research.com/evolution/>

¹⁶ Arădăvoaice G., Naghi G., Niță L.D., *The end of terrorism?*, Ed. Antet, 2002, Ploiești, p.172.; Preda Valentin, *The new terrorism- the correct report between prevention and consequence evaluation*, http://www.spp.ro/NOUL_TERORISM.pdf, p.1, *apud* Cristian Delcea, „Impact strategic nr. 1 / 2006”

¹⁷ Extracted from the definition presented by Nick Pratt, *apud* Oros, V., Violence without frontier, in Romanian Magazine of humanity law, IX (2001), no. 4(39), p.4

¹⁸ Diaconu, Dumitru-Virgil, *op.cit.*, p.2

military reflection has to be employed to be able to determine the means and strategies necessary for our democracies, in order to efficiently counteract this threat. Fighting against international terrorism is not only a matter of internal security that affects certain countries, but a true strategic challenge that the democracies and our values have to face"- argues a French general,¹⁹ and A. Nekless states that "in these circumstances, there is a new terrorism on the historical scene, a 'system terrorism': system of precise actions, with high results and resonant effects- wide and long, with very well calculated consequences".²⁰

The beginning of the 21st century is specific to *neo terrorism*, characterized by the fact that appreciated each victim of a 'blind' assault as a declared enemy of the ones that promote violence with political causes. This new type of terrorism is characterized by its transnational context, by the lethality of its attacks but also by the long and meticulous planning of the attacks, because the results have to be spectacular and also by the emergence of a network of networks, mass collateral victims, fundamentalist motivations, terrorism as means of war²¹ etc. "*Mega terrorism*"²² can have almost inestimable consequences, at a national or worldwide scale, by resorting to mass destruction weaponry, nuclear terrorism, chemical or bacteriological, eco terrorism and cyber terrorism. There are serious reasons to be worried if we take into account a new type of weapon, the genetic one. The categories mentioned above represent a summary presentation of the wide spectrum of terrorist threats. The former US president, George W. Bush declared, in front of the UN General Assembly that : "*The entire world is confronted with the most horrible of all perspectives; these terrorists are searching new mass destructions weapons to transform their hate in a holocaust. We are expecting them to resort to chemical and biological weapons as soon as they will be able to do this.*"²³

International terrorism is subjected to international criminal law regulations that imply elements of extraneity, in what concerns the act's author, the victim and the place where the terrorist act was committed, as well as its consequences.²⁴ Repressing the international terrorism requires actions, fighting strategies at international level; in this context, the international community has framed several conventions and other documents on preventing and fighting against terrorism. In 1937, the League of Nations adopted the *Geneva Convention on preventing and repressing terrorism*. In the years that followed the creation of the United Nations and other international intergovernmental organizations several judicial instruments have been adopted, namely *Hague Convention on the suppression of illicit spacecrafts capture* in 1970, *Montreal Convention of repressing the illicit acts against civil aviation security* in 1971, *New York Convention on the prevention and suppression of crimes against individuals under international protection* in 1973, *New York Convention against hostage taking* in 1979, the *Convention and Protocol on repressing illicit acts against maritime security and platforms situated on the continental plateau* in 1988, the *Montreal Convention on marking plastic explosives in order to facilitate their identification*, in 1991, *New York Convention of eliminating terrorist bomb assaults* in 1997, *New York Convention on blocking the sources of terrorism financing* in 1999, *International Convention of suppressing nuclear terrorist acts* in 2005 etc. but also regional instruments, such as the *Strasbourg Convention on suppressing terrorism* in 1977, *The South-East Asian Association Convention on regional cooperation against terrorism-Katmandu* 1977, *The Arab Convention on suppressing terrorism-* Arab States League, Cairo, 1998, the *Islam Conference Organization Convention on suppressing international terrorism-* Ouagadougou 1999 etc, through which the participant states approach the international terrorism issues by proposing measures on prevention and fighting against terrorism.

¹⁹ Christian Delange, army general , *La guerre contre le terrorisme*, 18.09.2001, www.fr.strategie.org

²⁰ Неклесса А., *Управляемый хаос: движение к нестандартной системе мировых отношений* // *Мировая экономика и международные отношения*, № 9, 2002, с.105

²¹ "There is no longer peace, there is no longer war but only war", Jenkins, Brian M., *International terrorism. A new mode of conflict, International Terrorism and World Security*, London, 1975, p.13, *apud* Pivniceru, Mona Maria, *Criminal liability in international law*, Ed. Polirom, Iași, 1999, p.120

²² Together with "super terrorism", "mega terrorism" is one of the most dangerous forms of neo terrorism. Stoina, Neculai, *Megaterorism — challenge for the third millennium*, http://www.armyacademy.ro/buletin/2_2004/a12.pdf

²³ *Apud* Mikkelsen, Randal, *Le terrorisme de demain risque d'etre nucleaire dit Bush a L'OIVU* <http://fr.news.yahoo.com/01111/85/28tpx.html>.

²⁴ Tănăsescu, Tudor, *International public law*, Ed. SITECH, Craiova, 2006, p.65

Fighting against terrorism, the biggest threat the 21st century humanity is confronted with requires global cooperation. On 8 September 2006, the UN General Assembly adopted a worldwide anti terrorist strategy in form of a resolution²⁵ together with an action plan, representing a unique document on the improvement of anti terrorist activities efficiency at a national, regional and international level. It is the first time the UN member states have convened on the common strategic and operational approach against terrorism.²⁶ In September 2008, at the General Assembly on the examination of implementing the global anti terrorist strategy of the UN, the resolution A/RES/62/272 that restates the support of this strategy.

But this strategy represents only a step in reaching the conjoint objective: *providing a better world for our children.*²⁷

The international community immediately understood that only through international cooperation the efficient means of fighting terrorism can be created and no single state can face this threat and international solidarity is the solution.

3. The European Union's activity in preventing and fighting against terrorism

The European Union, architecture that started to articulate itself more than 50 years ago and consolidate each step of its evolution, didn't leave behind the preoccupations regarding preventing and fighting against international terrorism. Terrorism has been and continues to be present in Europe²⁸ and represents a threat for the European security.

Qualified in the specific literature as an institutional actor more dynamic than NATO in combating this phenomenon²⁹ the European Union is at the same time one of the most important partners of NATO³⁰ and UN, concerning the fight against this scourge, that has united its powers with those of the international community for the development of mechanisms of fighting against terrorism.

The global dimension of the problem represented by the international terrorism imposed a multilateral reaction from the part of the member states on the EU as well as third countries and different international organizations.

If we refer to the features of the terrorism manifested within the European Union we have to mention the fact that it reunites, in general, the features of global terrorism, completed by historical, political, economic and social elements of each member state. In analyzing terrorism in the European space we have to take into account the favored element which consists in the relaxation and permeability of the borders between the member states, the free circulation of people within the community having the capacity to facilitate at the same time the development of terrorist networks.

The European Union approached the terrorism problem together with the adoption of the Maastricht Treaty³¹ whose regulations created the premises for a common approach in what concerns fighting against terrorism, justice and internal affairs, but also the common security and defense policy that represented two of the European Union's pillars.

By virtue of article K.3 of the European Union Treaty, the EU's Council adopted in the purpose of preventing and fighting against terrorism the Europol Convention³² ratified by all the member states and established the objective and mission of the organization, to improve the efficiency and

²⁵ A/RES/60/288

²⁶ <http://www.un.org/french/terrorism/strategy-highlights.shtml>

²⁷ A/60/825, p. 28, <http://www.un.org/french/unitingagainstterrorism/a60825.pdf>

²⁸ Jura, Cristian, *International Terrorism*, Ed. All Beck, Bucharest, 2004, p.338

²⁹ Barna, Cristian, *Terrorism. Ultimate solution?*, Ed. Top Form, Bucharest 2005, p.135

³⁰ Sarcinschi, Alexandra, *Vulnerability, Risk, Threat. Security as Psychosocial Representation*, Ed. Militară, Bucharest, 2007, p.89

³¹ The Maastricht Treaty that led to the creation of the EU was adopted on 7 February 1992 and came into force on 1 November 1993.

³² EUROPOL Convention came into force on 1 October 1998, JO C 316, 27.11.1995, p. 2

cooperation of the competent authorities in the member states, in what concerns the prevention and fighting against severe forms of international organized crime and terrorism and the contribution to the EU's action in enforcing the law against organized crime and terrorism.³³

A very important document that proves the EU's commitment in preventing and fighting against terrorism, in a visible and coherent manner, is the Guide on the Common Approach in Fighting against Terrorism, based on the Guide on the Common Approach in Repressing International Terrorism, document that has been issued in 1986 and revised in 1996 and 1999, significantly modified after the events of 9/11 2001.³⁴ In this document, it is set up that fighting against terrorism remains one of the biggest priorities of the EU and condemns all the acts of terrorism as being unjustified and having a criminal nature, no matter the motivation, forms and manifestation.

The EU's activity in fighting against terrorism and organized crime included the Common Action 96/610/JAI of the Council on 15 October 1996 on the creation and maintenance of a register of competence, knowledge and specialized expertise in fighting against terrorism, meant to facilitate antiterrorist cooperation among the EU's member states.³⁵ The Common Action 98/428/JAI of the Council on 29 June 1998 that led to the establishment of a European Judicial Network³⁶ with competence in terrorist deeds, the Common Action 89/733/JAI of the Council on 21 December 1998 on the incrimination of any participation in a criminal organization in the EU's member states³⁷ and the Council's Recommendation on 9 December 1999 on the cooperation in fighting against terrorist financing.³⁸

At the European Council in Tampere, on 15-16 October 1999 was decided the establishment of a EU's organ that can contribute to the consolidation of fighting against severe forms of organized crime. Accordingly, through the European Council's decision on 28.02.2002³⁹ EUROJUST is formed, with the purpose of ameliorating the coordination among the competent authorities of the member states on the investigations and prosecutions, the amelioration of the cooperation between the competent authorities of the member states especially for facilitating the application of international judicial assistance with the purpose of rendering the investigations and prosecutions more efficient. The material competence of the EUROJUST includes, according to article 4 of the Council's Decision, all the deeds stipulated by the article 2 of the Europol Convention, namely terrorism, drug traffic, human traffic, radioactive and nuclear substance traffic, corruption, money forgery and other means of payment.⁴⁰

In the preamble of the Framework Decision of the Council on 13 June 2002⁴¹ on fighting against terrorism it is reminded that the EU is based on universal values of human dignity, freedom and equality and solidarity, respecting the fundamental rights and liberties of humans and the terrorism represents one of the most serious breaches of these principles. The Decision states in article 1 that the terrorist deeds are the intentional acts presented in (a)-(i), as they are defined as being international law crimes and that by their nature or context, can severely prejudice a state or an international organization. In article 5 is included the member state's obligation to take the necessary measures in order to guarantee that these crimes are liable for adequate punishments.

The efficiency of fighting against international terrorism faced a new stage through the adoption of the Council's Decision on 19 December 2002, on the implementation of specific measures to consolidate the police and judicial cooperation on fighting against terrorism.

In March 2004, the European Council adopts, as a consequence of the Madrid attacks, the *Declaration on fighting against terrorism*, where it states its solidarity with the victims of the attack and their

³³ http://www.europol.europa.eu/index.asp?page=factsoter_ro&language=

³⁴ The Guide was elaborated by The Working Group COTER, within the EU Council. <http://www.onpcsb.ro/pdf/Ghidul%20privind%20abordarea%20comuna%20in%20lupta%20impotriva%20terorism.pdf>

³⁵ JO L 273, 25.10.1996, p. 1

³⁶ JO L 191, 7.7.1998, p. 4.

³⁷ JO L 351, 29.12.1998, p. 1.

³⁸ JO C 373, 23.12.1999, p. 1.

³⁹ Decision 2002/187/JAI of the European Council, JO L 63, 06.03.2002, p. 1.

⁴⁰ http://www.eurojust.europa.eu/official_documents/Eurojust_Decision/2002/1_06320020306en00010013.pdf

⁴¹ JO L 164, 22/06/2002 P. 0003 - 0007

families. In the declaration is reminded the necessity that the measures adopted by the Council have to be effectively and comprehensively implemented by the member states in their legislation on fighting against terrorism and the improvement of judicial cooperation, consolidation on international cooperation and maximization of the international informatics system.⁴² In this declaration's annex are listed the objectives comprised in the Action Plan for fighting against terrorism. In 2001, the EU initiated an Action Plan against terrorism in which it proposes the improvement of cooperation among the public order institutions, development of international legal instruments, stopping the means of financing terrorism, consolidation of airport security and coordination of UE activity on fighting against terrorism with the global initiatives.⁴³

A very important step towards fighting against terrorism was represented by the adoption by the European council of the European Security Strategy that lists terrorism among the key threats of the EU as Europe is both a target as well as a base for violent religious terrorism. The concerted action at the European level is thus crucial.⁴⁴

The European Council in November 2004 approved a program named The Hague Program for 2005-2009⁴⁵ that continues the Tampere Program (1999). This program approaches all the aspects of free, secure and just space, including the external dimension and of course fighting against terrorism and organized crime, as well as the judicial and police cooperation. The Hague Program was completed by an antidrug strategy, adopted by the European Council in December 2004.⁴⁶

The implications in this field were represented also by the Commissions Communicate to the Council, European Parliament and the European Social and Economic Committee on 29 November 2005, named "*Prevention and fighting against terrorism financing through consolidated cooperation at the national level and a greater transparency of the non-profit sector*"⁴⁷ that includes a recommendation for the member states and the Commission's Memorandum on 1 December 2005 on financing terrorism: new directions for the member states on coordination structures at national level and the vulnerability of the non-profit sector.⁴⁸

In the European Parliament's Resolution on 12 December 2007 on fighting against terrorism⁴⁹ the EU declares itself decided to fight against terrorism in all forms, no matter if the origins or actions of this phenomenon are situated within or outside its borders. Fighting terrorism is a very complex issue that needs more than anytime a multidimensional strategy, on several levels and multidisciplinary, as the Strategy of fighting terrorism⁵⁰ adopted in December 2002 by the European Council. The Resolution contains the idea that each of the Strategy's aspects- prevention protection, pursuit, reaction- need full implication from the Parliament and national parliaments, that have to be correctly and periodically informed, through evaluations performed by the Commission every two years and that they should be given the possibility to verify the efficiency of the measures that have been adopted, including their impact on fundamental rights, in case the initial objectives have been enforced as well as the real costs of these initiatives.

In the Council's Report on 11 December 2008 on the implementation of the European Security Strategy is stated that all the EUs actions in what concerns security have been connected to the UNs objectives and is underlined also the necessity to consolidate the strategic partnership EU-NATO that continues to be "an irreplaceable foundation".⁵¹ Although there have been significant changes and

⁴² Voicu, Costică; Ionescu, Mircea, *Aerial Terrorism. Judicial Approach. Prevention and crisis management*, Ed. Pro Universitaria, Bucharest, 2006, p.170

⁴³ The action plan on combating terrorism, approved by the European Council on 21 September 2001 and the Action Plan on fighting against terrorism/ Roadmap revised by the Council on 15 June 2004 and adopted by the European Council at the reunion on 17-18 June 2004- <http://ue.eu.int/uedocs/cmsUpload/EUplan16090.pdf>

⁴⁴ <http://ue.eu.int/uedocs/cmsUpload/031208ESSIIRO.pdf>

⁴⁵ JO C 53, p. 1 - 14

⁴⁶ http://ec.europa.eu/health/ph_determinants/life_style/drug/documents/drug_strategy0512_en.pdf

⁴⁷ COM(2005)0620

⁴⁸ MEMO/05/460

⁴⁹ <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2007-0612&language=RO>

⁵⁰ <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2007-0612&language=RO>

⁵¹ <http://register.consilium.eu.int/pdf/en/05/st14/st14469-re04.en05.pdf> Actes de la IV-ème Conference pour L'unification du droit penal, Paris, 1932, p.134

progress in the past five years the European security strategy has not been finalized and that requires consolidating the coordination measures in order to act in case of a major terrorist incident, more measures in what concerns financing terrorism as well as a efficient and adequate European policy on exchanging information, taking into account the protection of personal information.

4. Conclusions

The biggest threat to global security, peace and stability and the democratic values of the international community in 2009 is still global terrorism. Terrorism cannot be ignored and cannot be tolerated. Terrorism constitutes a direct threat to the European citizens, the EU member states, democracy and lawful state, values that represent the foundation of the EU, as it is stated in the EUROPOL Report on terrorism within the EU in 2008.⁵² Although the action at national level is still very important, it has very limited success. Establishing a coordinated fight against terrorism represented a very important step at European level. Depending on a unique range of instruments that involve prevention and repressing terrorism, the EU contributes already to a more secure world.

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⁵² ***EU Terrorism Situation and Trend Report. 2009,

http://www.europol.europa.eu/publications/EU_Terrorism_Situation_and_Trend_Report_TE-SAT/TE-SAT2009.pdf

A/RES/60/288, <http://daccessdds.un.org/doc/UNDOC/GEN/N05/504/89/PDF/N0550489.pdf?OpenElement>
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*** *International Public Law Dictionary*, Ed. Științifică și Enciclopedică, Bucharest, 1982
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