

Peculiarities of international legal regulation of combating international transport terrorism in modern conditions: cyber hygiene and cybersecurity

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Abstract

The article is devoted to analyzing the peculiarities of international legal regulation of combating international transport terrorism. The authors begin by proposing the definition of the terms "international terrorism" and "international transport terrorism". The concept of "international transport terrorism" implies a narrower semantic load than the concept of "international terrorism", therefore, it is mainly used to refer to maritime, vehicle and air terrorism. The concept of "international transport corridors" is defined as certain routes that are used within the framework of one comprehensive transport network. In addition to the above, international terrorism within the maritime, vehicle and air networks of international transport corridors is considered in detail. The main problems related to the fight against international transport terrorism are highlighted. There is also an analysis of the international conventions regulating international transportation. The authors prove that the modern legal regimes of international transport corridors are determined by an imperfect regulatory system which raises a number of problems. Particular attention is paid to the analysis of the mechanisms of international legal regulation of the fight against terrorism, since research in this area has not been carried out to a sufficient extent. It has been found that in order to form an effective international legal mechanism for combating transport terrorism, it is required at the international level to agree on the concept of international transport terrorism and to pay special attention to cyber hygiene and cybersecurity. Maintaining cyber hygiene is now becoming a matter of safe use of international transport corridors. Reasoned proposals have been made regarding the need to implement a number of measures to strengthen security within different networks of international transport corridors.

Keywords

international transport terrorism, international transport corridors, international transportation of goods, passengers and luggage, transport security, international law, international legal regulation, anti-terrorist activity, cyber hygiene, cybersecurity

1. Introduction

XXI century cannot claim victory in the "period of stability" nomination, as humanity continues to face a global threat - international terrorism. The geography and speed of the spread of terrorism in the modern world is constantly growing. Terrorism is a global threat, a form of political violence that grossly violates human rights [1, 2]. The terrorist attacks became a serious test for the democratic values of the world community. Terrorism poses a serious threat to international security, as well as the observance of human rights. International terrorism in all its manifestations affects not only the territories within which the maturation or active stages of armed conflicts take place, but also encroaches on the international legal order.

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One of the biggest threats to modern society among various manifestations of terrorism is international transport terrorism. In the course of historical development, various types of transport began to be actively used. The gradual convergence of national transport systems contributed to the creation of international transport corridors, which contributed to the intensive development of international transport relations. Peculiarities of legal regulation of international transport corridors at each historical stage are related to the intensity of their development. The evolution of the development of international maritime, vehicle and air networks were uneven: maritime and vehicle transport networks significantly outpaced air networks in their development. Accordingly, air terrorism arose later than maritime terrorism. At the current stage, terrorist groups use maritime, vehicle and air transport to carry out terrorist acts. International transport terrorism includes maritime as well as vehicle and air terrorism.

Nowadays, large-scale digitalization of the transport sector has become a global trend. Digitalization of transport corridors is the introduction of IT technologies. Terrorists use information and communication technologies to plan and carry out terrorist attacks on various types of transport. Cyber hygiene and cybersecurity issues receive very little attention in the transport sector. Despite the fact that the international community has adopted a number of anti-terrorist conventions and protocols aimed at limiting terrorism in recent decades, there are still no effective legal mechanisms for effective countermeasures against international transport terrorism. In international law, there is still no single universal convention defining the concepts of "international terrorism" and "international transport terrorism", their legal nature and responsibility.

The purpose of the research is to identify and characterize the features of the international legal regulation of the fight against transport terrorism in the context of globalization of international relations and the intensification of international transport links, to explore modern mechanisms of international legal regulation of the fight against terrorism, to formulate practical recommendations for improving international instruments to combat international transport terrorism.

2. Literature review

When using sources for writing research, the following criteria were used: a) sources indicating the relevance of the problem in modern conditions [3–8]; b) sources containing definitions of the terms "terrorism", "international terrorism", "international transport terrorism", "international transport corridor" [1, 5, 9–12]; c) sources analyzing the current threat of international terrorism and international transport terrorism [13–18]; d) sources analyzing international legal problems of combating international terrorism and international transport terrorism [17, 19–25].

The theoretical basis of the study is based on the works of both domestic researchers and foreign scientists [1, 2, 4, 26–33]. Among the most common research topics: a) the fight against terrorism at the international and national levels [4, 5, 7, 8]; b) means of international legal protection against terrorism [14–18]; c) international terrorism and human rights [22, 23, 27, 28].

In the works of modern researchers, it is noted that in the context of globalization there is a significant intensification of international terrorism. It should be emphasized that studies on the issues of combating international transport terrorism are practically absent in domestic and foreign professional literature.

General theoretical issues of ensuring international transport security are reflected in the works of international lawyers. Among the fundamental monographic studies devoted to the fight against international terrorism, works containing an overview of the mechanisms of international legal fight against transport terrorism are singled out. In the work of professors Van den Herik L. and Shriver N., entitled "Anti-terrorist strategy and fragmented international legal order: Meeting the challenges" [3], the issue of effective counterterrorism is considered. The book states that international cooperation is key in the prevention and investigation of terrorism. Schmidt A. in his scientific article "The way forward on counter-terrorism: Global perspectives" [4] touches on important issues of combating international terrorism and focuses on such an important problem as the lack of a clear

definition of terrorism. Di Filippo M. devotes his article to issues of international legal fight against terrorism [5].

3. Methods

The authors chose general scientific methods of cognition and legal methods as the main methods of studying the problem, which contributed to solving the tasks and ensuring the reliability of the conclusions drawn. The concept of "international terrorism", "international transport terrorism", "international transport corridor" and its components was studied by the method of analysis. Using the synthesis method, the concept of "international legal fight against transport terrorism" was defined. The formal legal method made it possible to outline the range of international legal sources that can be applied to combating terrorism at the international level. The historical method was applied to the study of the history of the development of terrorism in transport. A comparative legal analysis of a wide range of scientific papers on the chosen topic made it possible to identify the main objects of the transport and logistics system that are most susceptible to the threats of international transport terrorism. As a result of using these methods, the authors provided proposals for improving the international legal framework for combating international terrorism.

4. Results

An analysis of international transport terrorism in the context of globalization, its numerous specific aspects, makes it possible to single out the following categories of threats in the transport sector: violation of the security of maritime, vehicle and air international transport corridors; seizure of maritime, vehicle or air transport; exercising control over maritime, road or air transport; commission of an act of violence against any person who entered into transport relations; destruction or damage to maritime, vehicle or air transport; destruction by a vehicle of the infrastructure and territory of the city, country; use of vehicles as an indirect or direct object of terrorist activity, violation of fundamental human rights.

An analysis of modern international legal measures to combat acts of transport terrorism indicates that the following factors reduce the effectiveness of this fight:

- the lack of generally accepted definitions of the concepts of "terrorism", "international transport terrorism", "maritime terrorism", "vehicle terrorism", "air terrorism";
- the absence of specific national programs to combat acts of international transport terrorism;
- low level of scientific and technical cooperation between states in the creation of a unified monitoring system for international transport corridors;
- the absence of universal international legal mechanisms for combating terrorism;
- insufficient participation of international organizations in maintaining the security of international transport corridors;
- the lack of unified approaches to identifying the essential features of international terrorism and international transport terrorism.

As a result of the scientific study, the authors came to the conclusion that the fight against international transport terrorism should provide for the implementation of a set of special domestic and international measures of a technical, technological, economic, political and legal nature. These measures should be aimed not only at combating international transport terrorism, but also at improving the information security of the use of maritime, vehicle and air international transport corridors. Cyber hygiene in the transport sector, or cyber security rules in the transport sector, are an important component of the fight against international transport terrorism. In the context of the intensification of international transport terrorism, the improvement of international legal mechanisms for combating transport terrorism should become the basis for increasing the level of information security of maritime, vehicle and air international transport corridors. In order to achieve effective changes in the fight against international transport terrorism, it is quite important

to develop and adopt a new universal convention that would, based on the experience of previous documents, provide a modern alternative.

There are a number of international intergovernmental and non-governmental organizations in the world that deal with the issues of combating international transport terrorism. At the same time, at the moment there is no international intergovernmental organization that would set as its main goal the fight against acts of international transport terrorism (maritime terrorism, vehicle terrorism and air terrorism).

The development of international cooperation of Ukraine with other states in the fight against international transport terrorism based on the further expansion of contractual, legal and institutional mechanisms of interaction will contribute to increasing the level of security of national sections of international transport corridors and involvement in new transport projects.

5. Discussion

International terrorism can be characterized as violent actions that ignore the norms of domestic and international law, aimed at destroying the international order, achieving certain goals and objectives. The foreign terrorist fighters present an important threat to peace and security [6]. International terrorism has its own structure and varieties. The Council of Europe Convention on the Prevention of Terrorism (2005) states that the crime of terrorism cannot be defined as one specific crime. International transport terrorism is a crime against the foundations of international law, namely illegal actions to destabilize international relations. Terrorist activities are not a new phenomenon at the international level [7]. They have existed since the beginning of mankind. For a long time, transport terrorism did not go beyond national borders. The process of globalization plays a significant role in the spread of terrorism [8]. Globalization processes cannot be restrained by any barriers, as they overcome internal borders with great speed [8, 9].

At the current stage, transport terrorism has acquired international dimensions, which is primarily connected with globalization processes. The current vector of international transport terrorism, characterized by unpredictable and unprecedented threats, is not only a reaction to globalization, but also contributes to it. International transport relations in the period of globalization are actively developing and changing, accordingly, the international legal mechanisms of their regulation have to be improved [10, 11].

Before moving on to the measures and restrictions that exist today in the world to combat terrorism in transport, it is useful to clarify what the terms "terrorism", "international terrorism" and "international transport terrorism" mean. Attempts to develop a comprehensive document that would contain the definition of international terrorism began in the last century, but these attempts did not end in success. That is why later a number of special documents concerning various types of terrorism were adopted [12]. It should be emphasized that there is no universal definition of the terms "terrorism", "international terrorism", "international transport terrorism" in international law. The UN member states could not reach an agreement and develop a universally acceptable legal definition of the concept of "international terrorism". Analysis of the definitions of terrorism indicates differences of opinion regarding these concepts and their content. The lack of generally accepted definitions of these terms indicates the uneven application of certain research criteria by international scientists. The term "terrorism" belongs to the generalized concepts used to denote criminal acts aimed at achieving certain goals.

The UN General Assembly Resolution 49/60 "Measures to Eliminate International Terrorism," contains a provision describing terrorism: "Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them" [13]. Terrorism is the systematic use of terror and s as a result of repeated violent actions of an individual or group of individuals who, guided by ideological, political or criminal motives.

The International Convention for the Suppression of the Financing of Terrorism (1999) defines terrorism as “an act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act” [14]. This Convention emphasizes the need to strengthen international cooperation between states in the development and implementation of effective measures to prevent the financing of terrorism, as well as combat it.

Schmidt A. defined terrorism as "a violent method or the threat of its use, used by non-governmental conspiratorial individuals, groups or organizations in peacetime, carried out with the help of discrete actions aimed at various objects with specific goals or effects" [4]. According to Schmid A., the concept of "terrorism" needs a narrower definition and should be separated from other forms of political crimes in the same way as war crimes from other acts of hostilities.

Di Filippo M. notes that “the concept of terrorism is used in different contexts and for different purposes, and, accordingly, in conflict situations, it can be used to disqualify the opposite side, whether it be an individual, a private organization, an insurgent group, a liberation movement or a group of states [5]. The author defines terrorism as violence characterized by the extreme views of a part of society and the ability of this part to motivate political violence against the state and society in order to achieve their goals.

The concept of "terrorism" is used in a broad sense and includes both domestic terrorism and international terrorism. Many scholars distinguish between domestic and international terrorism, suggesting that these events are the result of two different processes. Miller G. notes that, in practice, distinguishing between domestic and international terrorism is not as easy as it might seem [15]. International terrorism can be described as terrorism that goes beyond the borders of one country. The concept of "international terrorism" is most often used to refer to acts of violence that are aimed at initiating political changes, undermining international relations and the international legal order, within the framework of which death occurs or damage is done. There is also a point of view that a terrorist act that took place on the territory of one state is international, but it is so significant that it affects the international community as a whole [16]. The Treatise on International Criminal Law of 1973 states that terrorism "is an international crime that threatens the peace and security of society, is offensive to the general conscience and causes damage to all mankind" [17].

Many countries around the world have experienced the devastating effects of international transport terrorism on their transport systems. Transport systems are often attractive targets for terrorist attacks [18]. International transport terrorism, like international terrorism, also does not have a generally accepted definition. However, since international transport terrorism is a type of international terrorism, its definition contains features of the definition of international terrorism with some clarifications. International transport terrorism can be defined as any violent act committed for a political purpose in the transport environment. International transport terrorism includes international maritime terrorism, international transport terrorism using land transport and international air terrorism. International maritime terrorism poses a serious threat to the safety of navigation and is a serious crime. Joyner C. defines maritime terrorism as “the systematic use or threat to use acts of violence against international shipping and maritime services by an individual or group to induce fear and intimidation in a civilian population in order to achieve political ambitions or objectives” [19].

International vehicle terrorism can be defined as unlawful actions (capture or theft, explosion of a vehicle), which entailed violations of human rights, with the aim of forcing the authorities to comply with certain requirements. Terrorism using vehicles has been widely used by terrorists since 2016, after the terrorist attack in Nice. Many terrorist attacks in the USA and Western Europe were carried out using vehicles, as this type of transport terrorism is easy to prepare.

International air terrorism is an illegal act of hijacking aircraft in flight, which seriously affects the operation of air transport corridors and endangers the safety of people and all civil aviation. The Convention for the Suppression of Unlawful Seizure of Aircraft (1970) [20] and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971) [21] define as criminal

acts against the safety of civil aviation, endangering the safety of persons and property, seriously disrupting air traffic and undermining faith of the peoples of the world in the safety of civil aviation.

Taking into account certain concepts of "international maritime terrorism", "international vehicle terrorism", "international air terrorism", and considering that international terrorism and international transport terrorism are an integral part of terrorism in general, international transport terrorism can be understood as acts committed within international transport corridors and transport space, which the international community considers unacceptable and criminal.

International terrorism has always denied human rights, as any kind of terrorism destroys human rights. Human rights have gradually come to the attention of the international community as one of the most important values. This led to the coverage by international law of a variety of issues of international life [22]. At the international level, a number of international legal acts have been developed that have consolidated general provisions on the content of human rights. The Universal Declaration of Human Rights has become an important international document in which fundamental human rights and freedoms are agreed upon [23, 24]. On the basis of the Universal Declaration of Human Rights, other important international documents were adopted, such as the International Covenant on Civil and Political Rights (1966) and the International Covenant on Economic, Social and Cultural Rights (1966). International terrorism is not only a threat to the rule of law at the national and international levels, but also a gross violation of human rights. Ensuring human rights in the context of the fight against terrorism is one of the key challenges for the international community.

International treaties and resolutions of the UN Security Council oblige states to guarantee the rights of all persons within their territory [25]. States have an obligation to protect people from terrorism. International human rights standards impose a positive obligation on states to ensure human rights. As Buromensky M. notes, "From the point of view of positive obligations, the state should not only have legislation that most fully ensures the observance of conventional rights and freedoms, but also take all necessary measures to ensure that it really acts, and does not remain on paper. That is, rights must be ensured not only *de jure*, but also *de facto*" [26]. International terrorism violates human rights. States must protect human rights as part of their positive obligations.

There is a wide list of human rights that are violated as a result of terrorist activities, among which the right to life, liberty and security of person, the use of torture, and the taking of hostages should be singled out. The right to life, as a basic human right, suffers the most from terrorist acts, since terrorist attacks always result in human casualties. According to the International Covenant on Civil and Political Rights, the right to life is an inalienable right of every person, accordingly, no person can be arbitrarily deprived of life. The African Charter on Human and Peoples' Rights states that every person is inviolable, and accordingly, the life of every person should be of the highest value [27, 28]. Deprivation of a person's life can be considered arbitrary if it is impermissible under international law or provisions of national law that provide protection. The American Convention on Human Rights states that everyone has the right to respect for their life from the moment of conception [29]. Accordingly, no person can be arbitrarily deprived of life. The European Convention on Human Rights states that everyone has the right to life, which is protected by law [30]. The main goal of terrorism is the destruction of human rights.

In modern conditions, the efforts of most countries and international organizations are focused on raising the level of national and international security in order to effectively prevent terrorist attacks. Ensuring international transport security is an important task in the sphere of regulation of transportation through pipelines, waterways, roads, railways, air and multimodal networks of transport corridors. Long historical experience indicates the importance of ensuring security in the implementation of international transport along international transport corridors. The identification and prevention of modern terrorist threats in transport remains an important issue of international law. The misuse of the term "terrorism" exacerbates the potential risk of human rights violations. This is especially true of the use of this term in the context of international transport terrorism.

The international legal regulation of modern transport corridors is characterized by serious shortcomings, among which it is worth highlighting the insufficient number of international

instruments for combating terrorism related to various types of transport. The directions and types of transport corridors can vary significantly by type of transport use and geography. Maritime, vehicle and air networks of international transport corridors are distinguished. Maritime transport corridors are used for river and sea transportation. Vehicle transport corridors are used for road transport. Air transport corridors are used for international air transportation. The peculiarities of the passage and composition of transport corridors explain the existence of disagreements regarding countering international transport terrorism within their borders.

The terms "transport corridor" and "international transport corridor" are used to refer to transport routes. The term "transport corridor" is used to refer to both national transport corridors and international transport corridors. The term "international transport corridor" is used only to refer to an international route covering the territory of two or more countries. Quite often the term "international route" is used, which is identical to the term "international transport corridor". In the decision of the International Court of Justice in the case of the Anglo-Albanian incident in the Corfu Strait in 1949, the term "international route" is used. The Group of Experts of the Inland Transport Committee of the United Nations Economic Commission for Europe defines an international transport corridor as a part of a certain national or international transport system, which, based on the technical, technological and organizational and legal conditions of operation, facilitates international transportation over certain distances. International transport corridors can be defined as international transport routes formed from different types of networks and infrastructure, contributing to the implementation of transportation by maritime, land and air transport on convenient organizational, technical, technological and legal conditions.

The legal regulation of international transportation is important for the implementation of mutually beneficial cooperation between states, possibly due to the establishment of regular transport links between them [31, 32]. Currently, there is no effective system of legal regulation of international transport corridors, which means that there is a constant threat of transport terrorism. The priority task of improving the functioning of international transport corridors and the information security of international maritime, road and air transport is the development of a universal international legal regime. The history of the evolution of the legal regulation of European, Eurasian and African international transport corridors proves that countering transport terrorism is a rather difficult task and not always successful. Improving the international legal regulation of international transport corridors requires the implementation of a wide range of consistent measures, including the establishment of international transport cooperation.

The main principles of international law are the regulators of international relations in the field of legal regulation of international transportation. The preamble to the UN Convention on the Law of the Sea (1982) states that "...the codification and progressive development of the law of the sea achieved in this Convention will ... contribute to the economic and social progress of all peoples of the world in accordance with the principles of the United Nations as set forth in its Charter" [33]. The principle of cooperation plays an important role in the fight against international transport terrorism. The international legal basis for ensuring transport safety is determined primarily by the effective coordination of international cooperation with the aim of achieving an effective result in the settlement of the issue of safe use of transport corridors. The main principles of international maritime law, which have a significant impact on combating maritime terrorism, include the following: the principle of ensuring the safety of the operation of ships and human life at sea and providing them with assistance, regardless of nationality; the principle of extending the sovereignty of coastal states to sea spaces located within the scope of national jurisdiction; the principle of using spaces with an international regime exclusively for peaceful purposes and for the benefit of all humanity. The main principles of international air law, which directly or indirectly affect the fight against international air terrorism, include the principle of sovereignty over airspace and the principle of guaranteeing the safety of international civil aviation.

Modern international legal mechanisms for combating international transport terrorism include a contractual mechanism and an institutional mechanism. The system of international treaties (multilateral and bilateral) belongs to the contractual mechanism of combating international

terrorism. The institutional mechanism for combating international transport terrorism includes international intergovernmental and non-governmental organizations. International agreements are the central link in the fight against international transport terrorism. International treaties that directly affect the field of combating acts of terrorism and piracy committed in transport include: International Convention for the Suppression of the Financing of Terrorism (1999), Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963), Convention for the Suppression of Unlawful Seizure of Aircraft (1970), Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971), Convention on the Suppression of Unlawful Acts relating to International Civil Aviation (2010), International Convention for the Suppression of Terrorist Bombings (1997), Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988), etc.

The institutional mechanism for combating international transport terrorism is formed from intergovernmental and non-governmental international organizations. The activities of the UN are aimed at developing various measures to combat international transport terrorism. Among the international intergovernmental organizations participating in the fight against terrorism, it is necessary to single out the International Criminal Police Organization. The activities of this organization are connected with the solution of criminal and police issues that arise as a result of terrorism. The role of such international organizations as the Association of Southeast Asian Nations (ASEAN), the European Union (EU), the League of Arab States (LAS), the Organization of American States (OAS), the Organization of African Unity (OAU) is becoming more and more noticeable in the fight against international transport terrorism.

Summarizing the above, we can conclude that at the present historical stage there is an intensification of international transport terrorism. The increase in the number of acts of international transport terrorism shows the inadequacy of the effectiveness of legal measures taken by the world community. The results of the analysis of international treaties in the field of combating acts of transport terrorism indicate that at present these treaties lay only the general foundations for international cooperation between states in the field of combating terrorism. In modern conditions, it is necessary to improve the international legal mechanisms for combating international transport terrorism.

6. Conclusions

In modern conditions, there is an intensification of international transport terrorism, which indicates the insufficiency of international legal means to prevent and combat terrorism. At the international level, international agreements have been developed that are legal instruments to counter the threat of terrorism. At the same time, it has not been possible to develop common approaches to identifying the essential features of international terrorism and international transport terrorism and to define them. International terrorism is a gross violation of human rights. Ensuring human rights in the context of the fight against international terrorism is one of the important issues.

The main mechanisms of international cooperation in the fight against international transport terrorism are contractual and institutional. The contractual mechanism of cooperation covers multilateral agreements. And institutional mechanism of cooperation includes cooperation at the level of international organizations. Effective counteraction to international transport terrorism, as well as international terrorism, should be based on the close interaction of international law and national law, as well as the improvement of international legal mechanisms for combating terrorism. Cyber hygiene and cybersecurity in the transport sector are an important component of the fight against international transport terrorism. An important step in the effective fight against international transport terrorism is the creation of a special international transport organization that would cover key issues in this area and the adoption of a new universal convention.

Declaration on Generative AI

The author(s) have not employed any Generative AI tools.

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