

SYSTEMATIZATION OF FUNDAMENTALISM, EXTREMISM AND TERRORISM IN THE CRIMINAL LEGISLATION OF THE REPUBLIC OF MOLDOVA

SISTEMATIZAREA FUNDAMENTALISMULUI, EXTREMISMULUI ȘI TERORISMULUI ÎN LEGISLATIA PENALĂ A REPUBLICII MOLDOVA

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Summary. *As a result of significant updates and additions in the sphere of criminalization of acts of terrorism and some forms of extremism in the Criminal code, both Code of contraventions of the Republic of Moldova, there has been appeared a stringent necessity to research a new category of crimes in the sphere of extremism and terrorism.*

During analyzing the list of crimes of a terrorist nature set out in the art.134/11 of the Criminal Code of the Republic of Moldova (CC RM), we find that the elements of crime provided for in the art.279 (CC RM) (Financing of Terrorism) were dropped from this list, which, in our opinion, is an unacceptable omission of the legislator.

Taking into account the legislative decision regarding the identification of the list of crimes of a terrorist nature, a paradoxical legal situation arises: organizing or facilitating a trip abroad for terrorist purposes (para.(2) of art.279/3 CC RM) and directly traveling abroad for terrorist purposes (para.(1) art.279/3 CC RM) are included in the list of crimes of a terrorist nature, but financing travel of individuals for the purpose of committing, planning or preparing terrorist acts or participating in them, as well as conducting or undergoing training is not.

In order to receive some valid scientific results, the systematic analysis and synthesis were performed. Consequently, we have demonstrated that the modern criminal legislation, even upgraded, suffers grievous gaps and deficiencies which we try to overpass. In future, we believe that our proposals will be taken into account for legal norms revision.

Keywords: *acts of terrorism; acts of extremism; terrorist purposes; financing of terrorism; aiding terrorist activity.*

INTRODUCTION

During the last period, the modern criminal legislation of the Republic of Moldova has been subjected to significant updates and additions in the sphere of criminalization of acts of terrorism and some forms of extremism.

So, in our opinion, terrorism and extremism are concepts from the modern criminological science and should be considered as a criminological phenomenon and not the criminal misdeeds. Sequentially, the Criminal Code of the Republic of Moldova no. 985 of April 18, 2002 incriminates only some acts of terrorism and extremism, expressed in their individual forms,

Therefore, we should distinguish between fundamentalism, radicalism, extremism and terrorism.

MATERIAL AND METHODS

Fundamentalism is initially and potentially conflicting, since it proposes certain religious, political territorial values, as priorities. At the same time, in its extreme manifestations, fundamentalism overgrows into extremism [1, p.52]. That's why extremism (from the Latin *extremus* - extreme) is an adherence to extreme views and measures in an effort to reorganize the world in accordance with fundamentalist views [1, p.52].

Radicalism is fixed, first of all, on the content side of certain ideas (“root”, extreme) and can only be ideological, contrary to extremism, which is always operational, but not at all times ideological. If radicalism is manifested in the subject-matter of the ideas, then extremism is manifested in the methods of turning them into reality.

Extremism is the use of extreme, destructive, beyond what is permitted, means to achieve radical religious or political goals. Extremism presupposes the presence of two structural elements: extremist ideology and a specific personality orientation.

Extremism, based on any ideology, provides a theoretical justification for the use of power, while terrorism acts as systemic actions, relying, as a rule, on extremist ideology, since terror is used to achieve political goals. Terrorists become those extremists who actively use a terrorist strategy (“*terrorists in practice*”) or at least simply promote such methods of struggle (“*terrorists in ideology*”).

In accordance with the Law of the Republic of Moldova no.54 of February 21, 2003, on countering extremist activities, *extremism* is a position, a doctrine of certain political movements that, on the basis of extreme theories, ideas or views, seek to impose their program through violent or radical measures [2]. According to the cited law, extremist activity is multifaceted and includes two groups of acts, including criminal offenses.

We found earlier that “*a favorable condition for the expansion of extremist and terrorist information is the possibility of feedback in the media space (the ability to comment, enter into debate with an unlimited number of people, the admissibility of unlimited replication by reposting publications and transmitting links to others), convenient media content and the interface of certain websites, fashionable youth topics, which together lead to the creation of a sense of self-importance as a “consumer” of such information and to the conviction that he alone can change the world, in fact, it forms a favorable springboard for committing crimes.*” [3, p.92-93].

RESULTS AND DISCUSSIONS

In turn, the terms “*extremism*” or “*extremist activity*” appear in the General and Special Parts of the Criminal Code of the Republic of Moldova and in the Code of Contraventions under different forms.

The Code of contraventions of the Republic of Moldova, no.218 of October 24, 2008, provides for the following norms sanctioning extremist violations: para. (3) of the art.52 (Prohibited election campaigning) – “*Use of hate speech by an election competitor and/or*

incitement to discrimination during the election period and/or in election campaign materials"; art. 65/1 (Discrimination in the field of education); art.70/1 (Incitement to discrimination); art.71/1 (Discrimination in relation to access to publicly available services and goods); art. 250/2 (Violation of legislation on the procedure for providing Internet access services); para. (3) of art.365/3 (Violation of the rules of behavior of spectators at official sports competitions held in gyms or stadiums).

At the same time, we have to pay attention to the note provided in the para.(2) of art.70/1 of Code of contraventions of the Republic of Moldova. Under this rule, actions taken in the context of public discourse or public debate with reasonable and objective justification on issues of religion, education, objective scientific research, including in the context of artistic events or activities are not considered incitement to discriminatory acts based on prejudice.

In accordance with the provisions of the para.(3) of art.365/3 Code of contraventions of the Republic of Moldova, no.218 of October 24, 2008, (Violation of the rules of behavior of spectators at official sports competitions held in sports halls or stadiums), introduction into sports halls, on sports grounds or stadiums of emblems, flags, banners or other materials containing symbols, images or texts with obscene, discriminatory, fascist or extremist content, or their distribution by any means in sports halls or stadiums.

All at once, General Part of the Criminal code of the Republic of Moldova includes three penal norms which provides criminal liability for Organization and symbols of a fascist, racist or xenophobic nature (art.134/18); Holocaust (art.134/19); Motives of prejudice (art.134/21).

Special Part of the Criminal code of the Republic of Moldova includes following norms on extremism: art.135/2 (*Propaganda of genocide or crimes against humanity*); art.176/1 (*Violation of the rights of citizens by propaganda of fascism, racism and xenophobia and repudiation of the Holocaust*); art.185 (*Encroachment on the personality and rights of citizens under the appearance of preaching religious beliefs and performing religious rituals*); art.282 (*Organization of an illegal paramilitary group or participation in it*); art.338/1 (*Creation of an illegal information structure*); art.338/2 (*Conspiracy against the Republic of Moldova*); art. 338/3 (*Illegal collection of information*); art.339 (*Seizure of state power*); art.340 (*Armed rebellion*); art.340/1 (*Separatism*); art.341 (*Calls for the overthrow or violent change of the constitutional system of the Republic of Moldova*); art.346 (*Incitement to violent actions based on prejudice*); art.347 (*Desecration of state symbols*); art.351 (*Arbitrary assignment of the title of an official*); art.352/2 (*Failure to report crimes committed against public authorities and state security*).

CONCLUSIONS

During analyzing the list of crimes of a terrorist nature set out in the art.134/11 of the Criminal Code of the Republic of Moldova, we find that the elements of crime provided for in the art.279 of the Criminal Code of the Republic of Moldova (*Financing of*

Terrorism) were dropped from this list, which, in our opinion, is an unacceptable omission of the legislator.

Taking into account the legislative decision regarding the identification of the list of crimes of a terrorist nature, a paradoxical legal situation arises: organizing or facilitating a trip abroad for terrorist purposes (para.(2) of art.279/3 of the Criminal Code of the Republic of Moldova) and directly traveling abroad for terrorist purposes (para. (1) art.279/3 of the Criminal Code of the Republic of Moldova) are included in the list of crimes of a terrorist nature, but financing travel of individuals for the purpose of committing, planning or preparing terrorist acts or participating in them, as well as conducting or undergoing training is not.

At the same time, both *organizing and facilitating travel abroad for terrorist purposes* (para.(2) of art.279/3 of the Criminal Code of the Republic of Moldova) can be accomplished through financing. Then it turns out that what was done in the form of organization or assistance is committed through financing, then the act does not constitute a crime of a terrorist nature? Formally, the legislator contradicts himself and indirectly admits in para.(2) of art.279/3 of the Criminal Code of the Republic of Moldova that any assistance in traveling abroad for terrorist purposes, regardless of its form, will be a crime of a terrorist nature.

It follows from the expression that the legislator directly recognizes the special case of aiding terrorist activity, including by means of financing, but does not indicate in the list of relevant crimes the general rule on financing (art.279 of the Criminal Code of the Republic of Moldova).

As a result of the analysis, it is logical to recommend including art.279 of the Criminal Code of the Republic of Moldova, a general rule on the financing of terrorism, in the list of crimes of a terrorist nature in the art.134/11 of the Criminal Code of the Republic of Moldova

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