

## **Criminal liability for terrorism in foreign countries: comparative-legal research**

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**Annotation:** The article deals with the comparative legal analysis of the norms of the criminal laws of some foreign countries establishing liability for crimes related to terrorism. The article also developed proposals for further improvement of the article of the Criminal Code of the Republic of Uzbekistan on terrorism.

**Keywords:** terrorism, criminal liability, financing, false reporting, open appeal, propaganda of terrorism, training, aggravating circumstances.

The growing number of terrorist-affected facilities, the emergence of new forms, methods of terrorism, the increased use of science and technology, the increasing criminal prosecution of terrorists, and the expansion of international economic and financial cooperation has led to further strengthening liability for the crime. In particular, terrorism-related crimes are included in different chapters of the Criminal Code of the Republic of Armenia of April 18, 2003. Especially, in the chapter 23 of this code about "Crimes against Public Security" is given criminal liability for "Terrorism" (Article 217), in the chapter 25 about "Crimes against Public Law and Spirituality" for "False Report on Terrorist Act", and in the chapter 33 about "Crimes against Peace and mankind security" for "a terrorist act against the representative of foreign state or international organization" (Article 388) and "International Terrorism" (Article 389).

Here terrorism (Article 217) means the acts which cause explosion, firing, or destruction of people, causing serious property damage, or other socially dangerous consequences, if such acts are caused by destroying public security, frightening the population or to influence authorities' and officials' decision making or committed in order to fulfill other unlawful decisions of a guilty person

or have been threatened with committing such acts - shall be punished with imprisonment from five to ten years.

If the same acts committed by a group of persons in the form of conspiracy or with the use of firearms- shall be punished with imprisonment from eight to twelve years.

If the above actions that have been committed by an organized group or in the interests of other means that may result in the death of massive scale or radioactive substances or mass deaths - caused by negligence human death or other grave consequences - shall be punished with imprisonment from ten to fifteen years .

There is also an encouraging rule in this code of Armenia, where the person participating in the preparation for a terrorist act has been released from criminal responsibility in the absence of other criminal elements in the actions of the terrorist act who promptly informed the authorities or otherwise prevented the terrorist act.

Article 259 of the Criminal Code of the Republic of Armenia (False Report on Terrorist Movement) provides for a fine of two hundred to four hundred minimum monthly wages, or correctional labor from one to two years, or from one to three months shall be punished with imprisonment for the term not exceeding three years.

Article 259 of the Criminal Code of the Republic of Armenia (False Report on Terrorist act) provides for a fine of two hundred to four hundred minimum monthly wages, or correctional labor from one to two years or from one to three months shall be punished with imprisonment for the term not exceeding three years.

Article 388 of the Criminal Code of Armenia provides for criminal liability for terrorist acts against a representative of a foreign state or international organization. According to it, violence against a representative of a foreign state or international organization for the purpose of creating a war or complicating international relations shall be punished by imprisonment for the term from five to twelve years, killing mentioned individuals from ten to fifteen years or will be sentenced to life imprisonment.

According to Article 389 of the Armenian Criminal Code, international terrorism, that is, any other action aimed at the destruction or firing in the territory

of the foreign country or killing the people, bodily injury, destruction or damage to building, construction, road and communication means or other property if these acts were committed to bring about the international complexity or destabilization of the domestic situation in a foreign country, shall be punished by imprisonment from five to twelve years, and killing the persons mentioned up from ten to fifteen years, or will be sentenced to life imprisonment.

The Criminal Code of the **Republic of Belarus**, dated 9 July 1999, also deals with terrorism related crimes in 17<sup>th</sup> chapter which deals with crimes against the security of peace and humanity, of the section 6 on "Crimes against peace, humanity security and military crimes". The Belarusian Criminal Code provides for the criminal liability for a terrorist act against a foreign state or international organization (Article 124), an attack on an international organization (Article 125), and an international terrorist act (Article 126).

At the same time, if the international terrorist act carried out actions aimed at explosion, firing, flooding or destruction of human beings, bodily injuries, application of other general danger methods or other serious consequences to commit these acts in order to prevent international complications or destabilization of the public order in the territory of the diplomatic representation, consular establishment of the foreign state or foreign state in the territory of the Republic of Belarus shall be punished with imprisonment from eight to fifteen years.

If the same acts committed repeatedly by a group of persons in connection with the delivery of a recidive or severe injury, shall be punished with imprisonment from eight to twenty years.

If the offense is committed by an organized group with the use of atomic energy facilities or with the use of radioactive substances or nuclear materials, strongly influencing toxic chemicals or biological substances, as well as for the purpose of complex international relations or the fabrication of war or destabilization of the public order in a foreign country killing a state or public figure of a state - shall be punished with imprisonment from ten to twenty years or shall be sentenced life imprisonment or a death sentence.

The Criminal Code of the Republic of Belarus also stipulates a provision for the release of a person from criminal liability if a person promptly informed the authorities or otherwise prevented the terrorist act.

Chapter 23 under the name "Offences against Public Security and Public Order" the Criminal Code of **the Republic of Moldova**, dated April 18, 2002, establishes liability for a wide range of terrorist acts.

In particular, in the Criminal Code of Moldova determined criminal liability for a terrorist act (Article 278), delivery, deployment, mobilization or explosion of explosive device or other death causation (Article 278<sup>1</sup>), terrorism financing (Article 279), recruitment for terrorist purposes, training, or other support (Article 279<sup>1</sup>), promotion for terrorist purposes or mass support of terrorism (Article 279<sup>2</sup>), travel abroad for terrorist purposes (Article 279<sup>3</sup>), hostage taking a person (Article 280), knowingly false reporting on terrorist activity (Article 281).

Particularly, in the Article 278 of the Criminal Code of Moldova is about terrorist activities, that is, the fearing the public or any of its members, or drawing the public's attention to the particular political, religious or other opinion by the person who committed the offense or explosion of a State, international organization, legal or natural entity for the purpose of forcing or forbidding a particular act, firing or killing people, causing other injuries or health damage, serious damage to property or environment, or any other action causing serious consequences and also the threat of such actions for the same purposes - shall be punished with imprisonment from 6 to 12 years.

If these acts are committed by an organized criminal group, which has resulted in infliction of a large amount of property damage, with the use of firearms or explosives, causing serious or medium severe injuries to health- shall be punished with imprisonment from 8 to 15 years

If these acts were committed by a criminal community or caused death after negligence - shall be punished with imprisonment from 12 to 20 years.

If terrorist act committed by killing a person or a group of persons - shall be punished with imprisonment from 16 to 20 years, or life imprisonment.

Article 278 of the Criminal Code of Moldova stipulates two types of incentives: firstly, if a person who commits a terrorist act informs the authorities about the actions and that thereby causing death, injuries or other health injuries or disclosure of other consequences or other offenses, the minimum possible penalty can be applied as provided for by this article;

Secondly, a person participating in the preparation of a terrorist act may be exempted from criminal liability, if the person provided timely warning the authorities or other means of preventing a terrorist act from occurring and that there is no other criminal offense.

In the Article 278<sup>1</sup> of Moldova defined criminal liability for "Blasting device or delivery another device that cause death or blasting, activation, and placement.

According to it, if the blasting device or delivery, installation, commissioning, or blasting of a device or other objects of infliction of damage to the object of the public or government facility or infrastructure to an object of public transport, if such acts done with the result in death or serious consequences or serious damage to the site, facility or system, will be punished by imprisonment from 5 to 10 years.

The delivery, deployment, activation or explosion of a device or explosive device in a public place of a public or government facility, infrastructure facilities, or the object of carriage shall be deemed to have been caused by death or serious consequences, or the location, if committed to cause severe damage to the system, will be punished by imprisonment from 5 to 10 years.

In the Article 279<sup>1</sup> Criminal Code of Moldova indicated criminal liability for the recruitment, training, fertility or other support for terrorism. In accordance with it, recruitment for terrorist purposes, i.e. a person for committing a terrorist crime or to take part in the preparation or execution of the case, or to request the group or organization to join it for that purpose shall be punished with imprisonment from three to eight years with deprivation of the right to hold certain positions or to engage in activity for a term of two to five years.

Training for terrorist purposes, ie the manufacture or use of explosive devices or substances, weapons of mass destruction, radioactive substances or substances, firearms or other weapons, poisons or hazardous substances, shall be subject to the same or repeated use of other special methods or techniques, conducting a guidebook which may facilitate the commission of terrorist crimes - shall be punished with imprisonment from 4 to 9 years, with deprivation of the right to hold certain positions or to engage in activity for a term of 3 to 5 years.

Independent learning or training for terrorist purposes, i.e. preparation or use of explosive devices or substances, weapons of mass destruction, radioactive substances or substances, firearms or other weapons, poisons or hazardous

substances, which may contribute to committing one or more terrorist crimes acquisition of knowledge and practical skills on the use of other special methods or techniques - deprived of the right to hold certain positions or to engage in activities for a term of 3 to 5 years shall be punished with imprisonment from 4 to 8 years.

Knowing that they would be used for committing terrorist crimes at one or more times, they may be engaged in the production, storage, purchase, transportation or supply of arms, ammunition, other destructive devices or means, or biological weapon, access to restricted areas, access to information, object-oriented information, as well as other assistance for these purposes - shall be punished with imprisonment from five to ten years, with deprivation of the right to hold certain positions or to engage in activity for a term of 3 to 5 years.

If the above actions were committed with the use of their official position, the person shall be punished with imprisonment from seven to fifteen years.

In the article 279<sup>2</sup> of Moldova indicated the criminal liability for "**Promoting terrorist purposes or mass support for terrorism**". In accordance with which the purpose of promoting terrorist purposes, that is, spreading or spreading information to the public in order to encourage terrorism - shall be punished with fine from 650 to 950 nominal conventional units or 180 to 240 hours of public works or up to 5 years of imprisonment.

Collective support of terrorism, that is, the spread of information about the correctness of the ideology or practice of committing terrorist crimes, the necessity of their support or their imitation, or their deliberate submission to the public - shall be punished with fine of 550 to 850 conventional units or from 140 hours to 200 hours of public work or up to 4 years of imprisonment.

If the above actions committed with the use of the mass media or official position, shall be punished with fine from 850 to 1350 conventional units or imprisonment from two to five years.

In the article 279<sup>3</sup> of Moldova indicated the criminal liability for "**Traveling abroad for terrorist purposes**". According to it, traveling abroad for terrorist purposes, i.e. planning, preparing or participating in a terrorist offense, or traveling for terrorist purposes to the country with a non-permanent residence - will be punished from 3 to 7 years of imprisonment.



Organization or promotion of travel abroad for terrorist purposes is punishable by imprisonment from three to six years, with deprivation of the right to hold certain positions or to engage in activities for a term of 3 to 5 years.

Article 281 of the Moldovan Code requires that "**Knowingly false reporting on terrorist act**". According to it, knowingly false reporting on actions that may cause explosion, arson or other death, large-scale property damage, or other grave consequences - shall be punished by a fine of 550 to 850 or public works ranging from 180 hours to 240 hours or imprisonment up to 2 years.

Section 12 named (Crimes against Public Security and Public Health) of the criminal code of Another CIS country **the Republic of Turkmenistan** dated June 22, 1997 which deals with terrorism related crimes, includes the Chapter 29 (Crimes against Public Security and Public order).

In addition to terrorism (Article 271), there indicated criminal liability for promoting terrorism or encouraging to terroristic act openly (Article 271<sup>2</sup>), establishing, directing or participating in a terrorist group or terrorist organization (Article 271<sup>3</sup>), preparing, engaging in or combating terrorist and extremist activities or supplying it with weapons (Article 271<sup>4</sup>), preparation for terrorist or extremist activity (Article 271<sup>5</sup>), knowingly false informing about the terrorist act (Article 272).

The definition of terrorism which is given in the criminal code of Turkmenistan, article 271, is similar to the concept of most countries. The purpose of these actions is to undermine public safety, to frighten people or to create war, to complicate international relations, to influence the decision-making by the authorities, foreign states or international organizations.

At the same time, terrorism is committed by explosion, fire or attempt to commit or threaten to commit acts that can cause death, serious property damage, or other socially dangerous consequences. In Turkmenistan, sentencing of imprisonment from five to ten years is imposed on terrorist property if confiscated or not.

If these acts were committed repeatedly using a weapon, an explosive device, or a weapon, sentencing of imprisonment from seven to twelve years shall be imposed on seizure or non-confiscation of property.

If these acts have been committed by the use of weapons of mass destruction, the threat or use of radioactive substances, the threat of the spread or distribution of epidemics or epizootics, as well as by other actions that may cause mass death of people, caused by death of persons or other grave consequences, by previous concert by a group of individuals, by an organized group or criminal association shall be punished with imprisonment from ten to twenty five years without confiscation or non-execution of property.

Community security breach, attempting to frighten people or create war, complicate international relations, attempt to influence the decision-making process of Turkmen authorities, foreign states or international organizations, as well as for the purpose of assassination of a State or a public figure for the same purpose, or for the purpose of stopping his state or other political activity, or for the purpose of resorting to such activities, or by assaulting a person or organization, building, construction, communication by pledge of the means of transport, as well as with the removal or pledge of a moving part of air, water or railway shall be punished with imprisonment from fifteen to twenty five years without confiscation of property.

In the Article 271<sup>2</sup> of the criminal code of Turkmenistan indicated criminal liability for "**Promoting terrorism or encouraging to terroristic act openly**". According to it, promoting terrorism, or promoting a terrorist act, as well as preparation, storage or dissemination of such materials for distribution, shall be punished with imprisonment from three to seven years with confiscation of property.

If the same actions committed with the use of mass media, electronic or information-telecommunication systems, including the Internet, or by the person exercising the function of management in a commercial or other organization, by the head of the public association, and by a group of persons or by an organized group - shall be punished with imprisonment from five to ten years with confiscation of property.

Article 271<sup>3</sup> of the Criminal Code of Turkmenistan indicates criminal liability for "**Establishing, directing or participating in a terrorist group or terrorist organization**". According to it, the establishment of a terrorist group and a



terrorist organization, as well as leadership of them, will be punished by imprisonment from eight to fifteen years with confiscation of property.

Participation in a terrorist group or terrorist organization, as well as terrorist acts committed by them, shall be punished with imprisonment from six to twelve years with confiscation of property.

The above actions are committed by a person, who exercises administrative functions in a commercial or other organization, as a head of a public association, - shall be punished with imprisonment from ten to fifteen years with confiscation of property.

According to Article 271<sup>4</sup> of the Criminal Code of the Republic of Turkmenistan, which indicates criminal liability for "**Preparing, engaging in or combating terrorist and extremist activities or supplying it with weapons**" the preparation or involvement of another person in terrorist and extremist activities, or the supply of arms to them - shall be punished with imprisonment from six to twelve years with confiscation of property. If these deeds have been committed by a juvenile or by a person using his official position, or by the person exercising the management function in a commercial or other organization, by a head of a public association, shall be punished with imprisonment from eight to fifteen years with confiscation of property.

Article 271<sup>5</sup> of the Criminal Code of Turkmenistan indicates criminal liability for "**Preparation for terrorist or extremist activity**". According to it, terrorist activity or extremist activity, including the transfer of knowledge and skills, and including those outside of Turkmenistan shall be punished with imprisonment from three to seven years.

A person shall be released from criminal liability if he voluntarily informs the authorities of the offenses envisaged by the present article and voluntarily makes informed, helps identify, organizes, executes and finances the proceedings and does not have other criminal elements in his actions.

Article 272 of the Criminal Code of Turkmenistan indicates criminal liability for "**Knowingly false informing about the terrorist act**", according to which the knowingly false informing of actions that may cause explosion, arson, or death of a person, property damage or other socially dangerous consequences - shall be punished with correctional labor up to two years or imprisonment up to two years.

On the basis of the above, it is desirable to specify in separate articles in the Criminal Code of the Republic of Uzbekistan with the comparative comparison with the laws of other states which deals with the such offenses as further promoting terrorist acts, encouraging, popularizing the acts of terrorism, deliberately reporting about terrorist act, establishing and directing a terrorist group and terrorist organization.

It is also proposed that incitement to the activities of the government and the armed forces be included as a target of terrorism in the first part of article 155.

Moreover, it is desirable to include a serious damage to the environment as an objective aspect of terrorism in the first part of article 155 of the criminal code.

Moreover, if the person who committed the terrorist act fully cooperates with the state authorities, it would be a positive decision and beneficial to strengthen the incentives of the criminal law to apply the minimum amount of penalties imposed by Article 155 of the Criminal Code.

In the improvement of Article 155 of the Criminal Code, it is proposed to separate them, taking into account the fact that the establishment of responsibility for the implementation and threat of terrorism does not comply with humanitarian and fair principles.

In conclusion, based on the experience of CIS countries, it is also advisable to include as aggravating circumstances in the Article 155 of Uzbekistan the use of firearms, explosives, poisonous, potent, chemical, biological, radioactive, nuclear materials and weapons of mass destruction, at atomic energy facilities, by a group of persons, dangerous and very dangerous recidivist, organized crime group, and also an official's use of his or her position.

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