



## Terrorism in Bosnia and Herzegovina - current state and suppression measures

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**Abstract:** Terrorism imposes a challenge for global security and is spread worldwide. At the same time, it is also a national problem and is anticipated in national criminal codes as a criminal offence. This is due to significant geopolitical events and global social changes. Nowadays, terrorism is a global threat, it is new, more deadly, expressed in its refined magnitude, destructivity and professionally coordinated attack planning; leant on the most advanced technology of the modern civilization; led by international non-state organizations through the global network of terrorist organizations that are located in many countries; associated with fanatic extremists; based on a principle that destruction power is equal to the power of change and control; and urged by the hatred towards the target, by the wish to see its target suffering because of what the target represents and what values it is fighting for. As such, terrorism has also been present in Bosnia and Herzegovina. Many factors imply its presence: terrorist attacks, training of potential terrorists, planning and preparation of terrorist attacks (court verdicts), presence of certain terrorist groups/cells, etc. This kind of terrorism requires an adequate response which should be globe-wide. Bosnia and Herzegovina should take a participation in the response through certain institutional and criminal justice regulations, at the same time respecting human rights and freedoms.

**Key words:** terrorism, causes, protection from terrorism, fighting terrorism, strategy, perspective.

### Introduction

Terrorism is a global security problem. The thing that characterizes terrorism is the fact that it has gone through significant changes under the influence of global social transitions, which points out current and possible terrorist activities. Current terrorism is inspired by the ideas of radical fundamentalism, which, by the mode and tools of perpetration of a terrorist attack, sets it apart from other forms of terrorism. The fact that causes a particular concern is the radicalization of ethnic groups by their religious origin, which represents a religious terrorism proclaimed through three goals: apocalyptic destruction of the world, establishment of religious authorities in a country and creation of religiously-pure state. In its research, the American criminologist and sociologist, Jonathan White, concluded that the apocalyptic doctrine and terrorism have become dangerous allies<sup>1</sup>. Thus, the radicalization of religious groups by their religious origin represents a major issue of today, and is specially expressed in countries dominated by ethnic groups. Putting an accent on a religion as a primary mover of terrorist activities came to the attention during the 90s. The fact is that the most severe

<sup>1</sup> When applied to terrorism, apocalyptic doctrine summons the terrorist to fight as holy warriors in a state of fanatic enthusiasm just at a time when a deity finishes its process of creation. They believe that the rule of the God is about to begin and that this is their last chance to purify the process of creation before the God starts reigning. Vajt, R. Dz, Terorizam, Aleksandria Press, Beograd, 2004.



terrorist acts from that time, whether in the sense of political implications and consequences or number of victims, had a common religious dimension and/or motives.<sup>2</sup> In his studies, Bruce Hoffman states that religious terrorism is characterized by several features that make it different from other terrorism forms.

Firstly, perpetrators (religious terrorists) must use religious doctrines in order to justify their acts of violence or to gain a support or even new members. Apocalyptic goals are usually identified as a necessity. That is where all other differences between "secular, political" and "religious" terrorism stem<sup>3</sup>. Still, it is very important to differ ethno-nationalistic — separatist terrorism from the one that contains religious elements but whose primary goals are not of religious nature.<sup>4</sup> Besides that there are also specific forms of terrorism such as suicidal terrorism. In addition, it has been noticed that at the global security scene there is a significant linkage between terrorism and organized crime and corruption, which leads to the emergence of narco-terrorism, cyber-terrorism and similar forms. It has been, also, constantly present terrorist threat imposed by nuclear, chemical and biological terrorism, i.e. by the possibility of terrorist organization to come into possession of the arms of mass destruction and to use it for terrorism purposes. Likewise, it is very important to mention the new organizational manner of terrorist groups, into so called terrorist networks or transnational terrorist collectivities. The number of countries burdened by terrorism has become larger, as well as the number of terrorist organizations and therefore the number of terrorist attacks with increased number of wounded and killed people and significant material damage.<sup>5</sup>

Finally, taking into consideration the fact that terrorism is one of the most dangerous forms of imposing security threats to the states, regions and the whole international community, it must be admitted that it represent a pretty convincing threat to the security (and survival) of certain states and global threat to the security of international community.<sup>6</sup> The mentioned analysis of terrorist activities can be used to state that the threat to the contemporary world by terrorism is great, having in mind the number of countries affected by terrorism, as well as larger number of terrorist organization practicing terrorism, with islamic terrorist organizations being the most active. The great number of terrorist attacks with increased number of wounded and killed people and significant material damage, also, point out the danger imposed by this phenomenon, while the contemporary world does not have an adequate system to protect from it.<sup>7</sup> It seems justified the hypothesis of some authors that we have entered "the Age of Terror".<sup>8</sup>

2 Hofman, B. Uriutrasnji Terorizam, Narodna Knjiga —Alta, Beograd, 2000, pg. 11.

3 See: Hoffman, B. (1998). The Contrasting Ethical Foundations of Terrorism in the 1980s, RAND.

4 The example of religious—ethnic group with non—religious goals is IRA. Although, it is primarily a catholic ethnic group, its aim is the banishment of British forces from the region and reunion of Northern Ireland, and not the creation of a religious state. On the other hand, the example of religious and ethnic groups with emphasized religious goals is a global terrorist network Al Qaeda, whose aim is to create a unique islamic country governed by Sharia as leading law. See: Heather, G. (2004), Defining and Distinguishing Traditional and Religious Terrorism Paper presented at the annual meeting of the International Studies Association, Le Centre Sheraton Hotel, Montreal, Quebec, Canada, Mar 17, 2004, [http://www.allacademic.com/meta/p73930\\_index.html](http://www.allacademic.com/meta/p73930_index.html)

5 Sikman, M. Terorizam — aktuelni i mogući oblici. Visoka škola unutrašnjih poslova, Banja Luka, 2006, pg. 12

6 Mialkovski, M.: Terorizam, Fakultet civilne odbrane, Beograd, 2004, pg. 6.

7 Vectić, S., Marčić, T. Terorizam i međunarodni odnosi, Zbornik radova "Suprotstavljenoj terorizmu — međunarodno-pravni standardi i pravno regulativno", Banja Luka: Visoka škola unutrašnjih poslova, 2011. pg. 510.

8 Talbot, S. and Chanda, N. (eds). The Age of Terror: America and the World after September 11. Basic Books, Yale Center for the Study of Globalization, New York, 2001.



## Terrorism as a security challenge and threat to the Republic of Srpska and Bosnia and Herzegovina

Terrorism represents a security challenge, risk and threat to certain countries, which allows us to say that it is a form of jeopardizing country and its security. Bosnia and Herzegovina (BiH) has not been spared of this kind of imperil. There are many factors that contribute to the presence of terrorism in BiH and many are those which paint BiH terrorism with international color.

There are many indicators that point out danger imposed to BiH by terrorism. Certain security intelligence shows that illegal trafficking in arms is a widespread phenomenon that directly affects overall security situation in BiH since smuggled arms can end up in the hands of a potential perpetrator of a terrorist act. Military arms, left over from the war, (1992-1995), usually stored in hidden locations, as well as arms stolen from military storages, are being smuggled the most. In most cases, the end user stays unknown. The arms from BiH are usually smuggled towards Albania, Kosovo, and across neighboring countries, towards European Union.<sup>9</sup> Besides that, in Bosnia and Herzegovina there are a number of security-interesting individuals in terms of terrorism and they evidently keep in touch with their foreign counterparts in a country and abroad. It has also been noted that many foreigners who participated in BiH war stay in the country, which was all put in connection with certain terrorist organizations.<sup>10</sup> Namely, more than one procedure before the ICTY was in connection with mujahideen in BiH during 1992 and 1993.<sup>11</sup> Visa regime issue has been quite interesting due to the fact that BiH had a visa-free regime towards all Arab countries from 1992 until December 2001, which enabled many foreigners to enter the country and to be granted and issued in different ways, usually illegally, citizenship, passports and ID cards. Furthermore, BiH draw the attention of the international public at the beginning of 1996 when training camp, called "Pogorelica", near place Fojnice was closed in an

9 Recently it has been uncovered a group that was smuggling explosive "Slmteks" from Bosnia and Herzegovina to France, whose members were the citizens of BiH. It has been, also, discovered illegal trafficking in arms towards the Netherlands and Sweden. There is a lot of information pointing out the linkage in illegal trafficking in arms between BiH citizens and crimeprone individuals from the surrounding countries. As a possible security threat to BiH should be taken into account the fact the part of illegally-owned arms stay at individuals, but are also, stored in BiH.

10 See: Djukic, S. Terorizam u savremenim uslovima sa specificnostima koje se odnose na ambijent BiH, Zbornik radova "Terorizam u savremenim uslovima", Visoka skola unutarasnjih poslova, Banja Luka, 2003, pg. 265.

11 The case IT-01-47 is the first one that deals with the presence of foreign Muslim fighters or mujahideens in middle Bosnia throughout 1992 and 1993, as well as with their subordination within the BiH Army, specifically within 3rd Corps and 7th Brigade in 1993. As the presented evidence pointed out, the foreign mujahideens had started coming into middle Bosnia in the second half of 1992 primarily from the Maghreb countries, and then from the Middle East. The foreign mujahideens differed significantly from the domestic citizens, and not only by their physical appearance and language, but, also by their brutal combat methods. In 2008, the ICTY convicted the ex-commander of BiH Army Headquarters (case no. IT-04-83) for not preventing or punishing the crimes of the members of El Mujahid Unit, who, as it was being proved by the prosecutor, were part of the managing and commanding chain in BiH Army and who were subordinated to him. Namely, on August 13th 1993, the current commander of BiH Army Headquarters ordered establishment of the El Mujahid Unit which was supposed to be within the 3rd Corps line of responsibility and whose members would be the foreign volunteers present at that territory. The verdict proved the mass crime on the religious basis. The commander was also convicted of the brutal murder of the three members of the Republic of Srpska Army (one of them was decapitated) and of cruel behavior towards other Serbian soldiers who had been captured in July 1995 by the mujahideens nearby the place called Zavidovci. He is, also, charged with the death of 60 Serbian soldiers captured by the mujahideens after the BiH Army took over Vozuca. More detailed information on the ICTY site. See <http://www.icty.org/x/cases/hadzihasanovic/acdec/bcs/had-dec030716b.htm> and [http://www.icty.org/x/cases/delic/cis/bcs/cis\\_delic\\_rasim\\_bcs.pdf](http://www.icty.org/x/cases/delic/cis/bcs/cis_delic_rasim_bcs.pdf)



international peace force's (IFOR) action. Camp "Pogorelica" was used as a training center for terrorists, as it is stated by Rohan Gunaratna, an independent court expert appointed to the "Pogorelica" case and one of the leading terrorism experts, in his report that was submitted to the authorities in charge of the corresponding court procedure<sup>12</sup> Furthermore, during October and November 2001, Federation BiH authorities and representatives of international community in BiH came into possession of the intelligence implying the existence of several Afro-Asian terrorist groups that were registered as "Algerian", "Egyptian", "BoIogna", "Skopje", and many others. In October 2001, six members of so called "Algerian group" were arrested and temporarily imprisoned due to suspicion that they had been preparing terrorist attack to US and GB embassies in Sarajevo. The mentioned ones were extradited to US authorities later in 2002.<sup>13</sup> Analysts suggest that in BiH there are between several hundred to several thousand of those who are close to radical Islamic milieu. After the 9/11 they became very cautious and withdrew deeper into the shadow, which makes it very hard to estimate their influence. This is supported by the statement of the BiH Intelligence—Security Agency director: "I see a potential danger in 3000 people who can, at any moment, whether due to their psychic or any other state, make a terrorist attack with consequences larger than all this." This is what BiH Intelligence-Security Agency director stated on 12.7.2010 at the session of the BiH Common Defense and Security Commission that was held on the occasion of the terrorist attack on police station in Bugojno, on 27.6.2010. At the same time, he asked from BiH politicians to provide adequate laws pointing out that with appropriate legislation the perpetrators would not be free after three months of detention and warned that it is time "for all of us to admit that this is radicalism and that like that it should be separated from the religion"<sup>14</sup>

In 2007, the first terrorist verdict was pronounced in BiH against individuals who had planned to carry out a terrorist attack in BiH or any other European country with the aim to force BiH authorities or other countries' governments to retreat their forces from Iraq and Afghanistan.<sup>15</sup> Furthermore, in

12 The training in Pogorlica Camp lasted 72 days. It was organized into 6 to 8 groups, every group counting 14 members. When the IFOR raided the Camp, they found a lot of weapons, military equipment, bombs, explosives and explosive ordinances, as well a material used for poisonous gas. They, also, found, at least, 10 sniper rifles with suppressors, 30 automatic guns, RPGs, 2000 meters of blasting fuse, 50 electronic detonators, partially or completely assembled, that were placed into toys, small radios, plastic icecream comets, jars and similar. Beside all that, they also found documents showing detailed plans for attack on UNPROFOR, orders for kidnapping UNPROFOR liaison officer with Serbian forces, guidelines for attack on building, cars, certain facilities, for kidnapping, making explosive, etc. it was also found six models that were professionally made, and one of them was of the US embassy building in Sarajevo, where the IFOR Headquarters was situated. See: Gunaratna, R. inside Al-Qaeda: Global Network of Terror (Rei Sub ed.), Berkley Trade, 2003.

13 it should be mentioned that these individuals spent more than six years in American military base Guantanamo. In December 2008, Federal judge in Washington ordered the release of five Algerians, while the sixth one was rejected the release since the "government had proved that he had planned to fight against American forces".

14 Rozajac, S.: U BiH vrelm optmmsi od 3.000 po/envi/ri/nih /c-1-m-i.s1z1, Dnevni list "Dnevni Avaz". Sarajevo, 13. 07. 2010.

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December 2009, BiH Prosecutors Office pressed charges against five individuals that were accused of acting as an organized criminal group in BiH in a period from November 2007 to November 2009, and whose aim was to perform a terrorist attack at one of identified objects, that is, wanted targets and thus provoke citizens' intimidation and destabilization of fundamental constitutional, political, economic and social structures. This group is still being processed in front of the BiH Court. Also, the BiH Court is currently carrying a procedure against six members of Vehabi movement that were accused of terrorist attack in police station Bugojno on June, 27<sup>th</sup> 2010. BiH Prosecutor's Office charges the three suspects with committing a terrorist act of causing great material damage to BiH and committing a premeditated murder of one individual, while the other three perpetrators are charged with providing a help to perpetrators after the commission of an offence. Namely, at the time when the improvised explosive device was activated, which was placed at the wall of police station Bugojno, one police officer was killed, the other gained severe injuries, while several other police officers ended up with mild wounds.

The police station was caused the material damage greater than €250.000, while the damage caused to nearby residential and commercial buildings is estimated to be around €105.000. The indictment states that the accused's aim was to provoke citizens' intimidation and destabilization of fundamental constitutional, political, economic and social structures of Bosnia and Herzegovina and that the same committed a terrorist act of causing a great material damage to BiH at which one individual was premeditatedly murdered.<sup>16</sup>

Potential targets of terrorist attacks in BiH are diverse, starting from aircrafts, power plants, transport and communication infrastructure, diplomatic facilities, facilities of significance for BiH and international community, all the way to the places of mass gatherings (schools, hospitals, public transport, town squares, etc.). In fact, there is a list made by European Commission in 2005 that names critical infrastructure sectors - possible targets of terrorist attacks<sup>17</sup>

### **Protection from terrorism in the Republic of Srpska and Bosnia and Herzegovina.**

Protection from terrorism implies a good knowledge about criminal phenomena, as well as about political, economic and social conditions that cause them. That is why it is necessary to have a multidisciplinary approach in fighting terrorism. It is, also, necessary to have an anti-terrorism strategy that would successfully respond to challenges of modern terrorism. It implies that countries need to undertake several anti-terrorism activities/measures at the same time, and literature, as the most important measures, mentions the following<sup>18</sup>: political antiterrorism measures (conflict resolution type (measures and activities aimed at resolving conflict through public dialogue and so called secret diplomacy); economic and social antiterrorism measures (aimed against monetary and social aspects of terrorism - prevention of financing terrorism); psychological - communicological educational

Headquarters was situated. See: Gunaratna, R. Inside Al-Qaeda: Global Network of Terror (Rei Sub ed.), Berkley Trade, 2003.

16 S1 2 K 002596 10 KO — CAUSEVIC HARIS I DR. information on the verdict and the trial can be found on the BiH Court site: <http://www.sudblh.gov.ba/?opcija=predmeti&id=369&jezik=b>

17 Potential targets are classified into eleven sectors including: energy sector, ICT, water, food, health, financial sector, government and public security, civil administration, transportation, chemical and nuclear industries, space, research area, with identified products and services of those sectors that are particularly vulnerable to terrorist attacks. See beyond: Green Paper on A European Programme for Critical infrastructure Protection, Commission of the European Communities, Brussels, 17.11.2005, COM (2005) 576 final.

18 Vejnovic, D., Sikman, Ivl., Radulj, S. Drustveni aspekti terorizma, Banja Luka: Udruzenje defendologa RS., 2006, pg. 63-66.



antiterrorism measures ( aimed at establishing a common system of values in order to achieve a dialogue with political opponents and at ensuring freedom of thought); intelligence and military—political measures (these measures provide a protection of potential targets - human and material — from terrorist activities); legal anti—terrorism measures (these measures try to create foundations for successful prevention and repression of all types and forms of terrorism within international community and internal legal systems).<sup>19</sup>

Bosnia and Herzegovina, as a member of the international community, has taken an active participation in the suppression and opposing global terrorism. It was obligated to do so by the UN Security Council Resolutions 1189 and 2625 of August 13<sup>th</sup> 1998, which directly tackle the issue of terrorism, as well as Resolution 1373 from September 28<sup>th</sup> 2001 which requires cooperation among countries in fight against terrorism. It should, also, be mentioned other international documents (conventions, resolutions and similar) which oblige BiH to cooperate. Having recognized potential threats, in 2006, Bosnia and Herzegovina expressed its readiness to fight terrorism in a document called Security Policy. "Fight against terrorism will be a cooperation factor of all concerned subjects and will be functionally and institutionally established in accordance with constitution and accepted international relations."<sup>20</sup> Through its activities, Bosnia and Herzegovina proved to be an active member and participant of Anti-Terrorist Coalition whose main aim is to fight terrorism. Besides that, Bosnia and Herzegovina has offered to pay certain contribution to establishment of a secure and stable environment in Iraq by sending a BiH Army contingent within the UN peacekeeping mission to demine and destroy discovered and seized explosive devices. A unit of BiH Armed Forces has also been deployed in a mission within the ISAF forces in Afghanistan.

Institutional framework of terrorism protection in BiH has two levels; state level (Bosnia and Herzegovina) and entity level (The Republic of Srpska and Federation of Bosnia and Herzegovina).<sup>21</sup> The following institutions are authorized to suppress terrorism at the state level: BiH Prosecutor's Office's Anti-terrorism Task Force", BiH Intelligence—Security Agency, BiH Ministry of Security and Anti—Terrorism Department within it (Sector for fight against terrorism, organized crime and narcotics misuse), Foreign Affairs Service, State investigation and Protection Agency including its Financial—intelligence Department, BiH Border Police and Interpol's National Central Bureau. At the entity level (The Republic of Srpska and Federation of Bosnia and Herzegovina) and Brcko District level, all anti—terrorism measures and activities are carried out by the competent law enforcement agencies. In the Republic of Srpska the responsibility is up to Ministry of interior with its all organizational units (in the headquarters and outside of it), in the Federation of BiH, it is up to Federal Ministry of Interior, while Brcko District Police carries all the competences in Brcko District.

19 International Cooperation in Fighting Against international Terrorism, ISPAC, 2001.

20 Bosnia and Herzegovina presidency, "Security Policy", February 2006.

21 Here are presented only those agencies which are directly involved in operational-tactical activities of terrorism suppression, that is, police agencies, without mentioning competent BiH prosecutor's offices and courts whose role in protection from terrorism is indisputable.

22 Antiterrorism Task Force was established by the Decision of the BiH Council of Ministers, on 105th session that was held on January 26th 2006. The establishment of this Task Force made the fight against terrorism Institutionalized. In these terms, the BiH Prosecutor's Office's activities are reflected in dismantling a network that provides financial and other forms of support to persons suspected to be connected with individuals, legal entities or associations whose activity indicates the terrorist behaviour. In 2005, the BiH Prosecutor's Office ensured cooperation and coordinated subjects involved in antiterrorism activities by collecting information on all terrorism — related activities in BiH and carrying out related investigations. See: <http://www.tuzilastvoblh.gov.ba/?opcija=sadrzai&kat=3&id=7&jezik=b>



Criminal-law protection from terrorism in the Republic of Srpska and BiH implies observing terrorism from the criminal-law point of view, including criminal-law incrimination of the behaviour that is considered to be terrorism or related to it; fighting terrorism from the criminal—procedure point of view with the process of pronouncing accused and or convicted ones of terrorism. Therefore, the Republic of Srpska and BiH defined and laid down criminal offences of terrorism and financing terrorism, while BiH Criminal Code laid down all other criminal offence in direct connection with terrorism. Within the group of criminal offences against humanity and values protected by international law, the BiH CC provisions<sup>23</sup> define the terrorism—related criminal offences: terrorism (Article 201), financing terrorist activities (Article 202), encouraging terrorist activities in public (Article 202a), recruitment for terrorist activities (Article 202b), training to perform terrorist activities (Article 202c) and organizing a terrorist group (Article 202d). In addition, this law, also, defines a terrorist group (Article 1, paragraph 21) as a structured group of at least three persons, formed and operational for a period of time with the aim of perpetrating one of the criminal offences of terrorism. Criminal offence of terrorism (Article 201, BiH CC)<sup>24</sup> - a terrorist act with the aim of seriously intimidating a population or unduly compelling the Bosnia and Herzegovina authorities, government of another state or international organization to perform or abstain from performing any act, or with the aim of seriously destabilizing or destroying the fundamental political, constitutional, economic or social structures of Bosnia and Herzegovina, of another state or international organization (paragraph 1)<sup>25</sup> Criminal Code of the Republic of Srpska within the Chapter XXV- Criminal Offences against Constitutional Order of the Republic of Srpska — in the Article 299 lays down a criminal offence of terrorism which exists only when the intentional act was undertaken with the intention of violation constitutional order or security of the state. Therefore, it is sufficient to have a terrorist activity that is undertaken with the aim of seriously intimidating population or compelling the authorities of the Republic of Srpska to perform, or to abstain from performing any act.

Procedural aspects of uncovering and investigating criminal offences of terrorism (and the ones related to it) in the Republic of Srpska and Bosnia and Herzegovina can be observed within the Special investigative actions which are defined in the BiH procedural Legislation<sup>27</sup>. These special investigative actions are laid down in BiH Criminal Procedure Code" (Chapter IX, Articles 116-122), the Republic of Srpska Criminal Procedure Code (Chapter XIX, Articles 234-240), The Federation of Bosnia and Herzegovina Criminal Procedure Code<sup>28</sup> (Chapter IX, Articles 130-136), and in the Brcko District Criminal Procedure Code (Chapter IX, Articles 116-120). Since these actions are classified in the identical manner in all the mentioned legislations, as an example, we are going to use special investigative actions as defined in the Republic of Srpska Criminal Procedure Code" (Article 234, paragraph 2): a) surveillance

23 BiH Criminal Code, BiH Official Gazette 03/03, corrections 32/03, amendments: 37/03, 54/04, 61/04, so/os, 53/06, 55/06, 32/07, 08/10.

24 Nlarkovic, i, Bablc, NI. Borba protiv terorizma Ikrivicnopravni aspekt), Zbornik radava "SuprotstuvUanje terorizmu — međunarodnapravni stundordi i pravna regulatlva", Bania Luka: Visoka skola unutrsnjih poslova, 2011. pg. 173-188

25 Analogue Articles of the Republic of Srpska CC (299) and FBII-I CC (200, 201) Identify the same criminal offence with the Identical elements.

26 The Republic of Srpska Criminal Code, RS Official Gazette 49/03; amendments 108/04, 37/06, 70/06.

27 See: Simovic, Ivl. Praktlclni komentar Zaltona o krivicnom postupku Republike Srpske, Visoka skola unutrasnjih poslova, Banja Luka, 2005; Simovic, Ivl. Krivicno procesno prava (uvod i opstl deo). Bihac: Pravni fakultet Univerziteta u Bihacu, 2009; Komentari krlvclnlh/kazneriuh zakono u Bosni i Hercegovinl, Sarajevo: Savlet/Vijece Evropei Evropska komisija, 2005.

28 BiH Criminal Procedure Cade, BiH Official Gazette: 3/03, 32/03, 36/03, 26/04, 63/04, 13/05, 46/06, 76/06, 29 29/07, 32/07, 53/07, 76/07, 15/08, 58/OB, 12/09, 16/09, 93/09.

The Republic of Srpska CPC — revised text. RS Official Gazette 100/09.



and technical recording of telecommunications; b) access to the computer systems and computerized data processing; c) surveillance and technical recording of premises; d) covert following and technical recording of individuals and objects; e) use of undercover investigators and informants; f) simulated purchase of certain objects and simulated bribery; g) supervised transport and delivery of objects of criminal offense. These special investigative actions can be applied against a suspect against whom there are grounds for suspicion that he has committed or is participating in the commission of an offense from this law-defined group of criminal offences, or against a suspect against whom there are grounds for suspicion that he has along with other persons taken part in committing an offence, if evidence cannot be obtained in another way or its obtaining would be accompanied by disproportional difficulties, These investigative actions may be ordered for following criminal offenses: a) criminal offenses against the Republic of Srpska; b) criminal offenses against humanity and in violation of international law; c) criminal offenses of terrorism; d) criminal offenses for which, pursuant to the Criminal Code, a prison sentence of minimum of three (3) years or more may be pronounced. The prosecutor and authorized police members are those who initiate the mentioned investigative actions, but it is up to the court, i.e. preliminary proceeding judge to issue an order, and at the same time, the judge is the one who keeps the control over the legality of the process of the appliance of these actions (court supervision principle).<sup>30</sup>

As it can be seen the RS CPC does not recognize special procedural methods in terms of terrorist acts. This implies that processing criminal offences of terrorism and the other criminal offences differ. All procedural actions are conducted in accordance with the RS CPC which takes into account human rights and freedoms that are part of numerous international documents and especially of the European Convention for the Protection of Human Rights and Fundamental Freedoms which has been overtaken by the BiH and integrated in whole in the BiH Constitution. In fact, there are no *lex specialis* provisions or special laws that deal with the issue of terrorism, while there are certain criminal—law systems that introduce special law in the area of fight against terrorism<sup>31</sup>

When talking about strategic activities, BiH has certain continuity. So far, the BiH Council of Minister has adopted two BiH Antiterrorism strategies. The first one was adopted on July 13th 2006 for a period from 2006-2009 and was suggested by the Ministry of Security. The aim of the Strategy was to provide an overview of the current situation in BiH and identifies priorities whose realization would establish a complete antiterrorism system in BiH. The second Strategy for prevention of and fight against terrorism was adopted in February 2010 for a period from 2010-2013. This Strategy clearly defines all that is aimed at prevention of all negative effects that come out of all forms of terrorism and criminal offences related to it.

### **Conclusion and recommendations for protection from terrorism**

30 Sikman, NI. *Organizovorr kriminolitet*, Banja Luka: Fakultet za bezbjednost i zastitu, 2011. pg. 430.

31 In 2000 and 2006, the Great Britain passed Terrorism Act; in 2005 Prevention of Terrorism Act; in 2001 Anti-Terrorism, Crime & Security Act, EIC. USA has a series of antiterrorism law, including USA PATRIOT Act of 2001; Homeland Security Act of 2002; Financial Anti-Terrorism Act of 2001 Australia has Anti-Terrorism Act of 2004 and 2005; The Suppression of the Financing of Terrorism Act of 2002, etc. in 2004, Canada passed Anti-Terrorism Act, while France has Counterterrorism Act of 1986.





The significance of terrorism prevention stems from the fact that it is a vivid form of threatening to the security of certain states, regions, and even international community. Terrorism prevention implies an organized form of social prevention and a criminal prophylaxis as a basic function of crime policy. It is carried out by formal and informal influence on the etiological factors of delinquency and by suppressing its causal processes and phenomena. Terrorism prevention includes good knowledge about criminal phenomena, and political, economic, and social conditions that cause them. It requires preventive activities of state bodies and social institutions, and is accompanied by the political, social, economic and pedagogical measures which are aimed at elimination of delinquent actions, including terrorism. Based on the above mentioned documents and in the spirit of global fight against terrorism, with the aim to make BiH, including the Republic of Srpska, more secure with its citizens living in freedom, security and justice, alongside with the respect towards human right as global strategic goals<sup>32</sup>, herewith we suggest the following perspectives and recommendations for protection from terrorism<sup>33</sup> a) terrorism prevention, 2) protection from terrorism, 3) dismantling and investigating terrorist activities and 4) response to terrorism.

1. Terrorism prevention should identify conditions and causes that lead to radicalization and enable recruitment of potential terrorists<sup>34</sup> in BiH in order to influence those etiological factors and therefore prevent further recruitment for terrorist activities. Besides that, it is also necessary to undertake certain measures related to the training in the area of law application by the government and other authorities, as well as in the area of education, culture, information, media and raise of public awareness. It is, also, vital to have measures for improvement and development of cooperation between BiH law enforcement agencies in order to prevent terrorist acts and their consequences, inter alia, by: a) information exchange, b) enhancement of physical protection of people and property, and c) improvement of training and coordination plans for emergency situations. Tolerance, dialog and culture in BiH should be promoted, inter-religious and inter-cultural dialogue encouraged, NGOs and other elements of civil societies included, all with the aim to lower possible tensions which can contribute to radicalization of certain ethnic groups. Furthermore, it is necessary to raise public awareness on the presence, causes and severity, and threats of terrorist acts, and try to encourage public to provide any kind of assistance to competent bodies and give its contribution to terrorism prevention. Alongside with that, it is necessary to create conditions to prevent terrorism through social prevention, social, economic, crime-related policies, as well as through culture and information.

2. Protection from terrorism implies measures and activities whose aim is to protect citizens and infrastructure in order to decrease their vulnerability in case of terrorist attacks. This, also, includes measures of physical and technical protection and improvement of the critical infrastructure security.

32 The Bucharest Plan Of Action For Combating Terrorism, OSCE, IVIC(9).DEC/1 4 December 2001; The European Union Counter-Terrorism Strategy (14469/05 LII/IIITE JAI 423 ECOFIN 353 TRANS 234 RELEX 639 ECO 136 PESC 1010 COTER 72 COSDP 810 PROCIV 174 ENER 172 ATO 103), Council Of The European Union, Brussels, 15 November 2005; Implementation of the Action Plan to combat terrorism (9809/1/05 REV 1 LII/IIITE IAI 208 ECOFIN 187 TRANS 114 RELEX 293 ECO 71 PESC 481 COTER 35 COSDP 371 PROCIV 82 ENER 91 ATO 60), COUNCIL OF THE EUROPEAN UNION, Brussels, 15 10 June 2005.

33 Sikman, I.VI. Zastita od terorizma u BiH — stanje i perspektive, Zbornik rodovo Bezbjednost izastim u Repub/ici SrpskojiBosniiHercegovini—stonjeiperspeirtive, Bahja Luka: Fakultet za bezbjednost i zastitu, 2008, pg. 371.

34 Article 6 of Council of Europe Convention on Terrorism Prevention, 2005, defines "recruitment for terrorism" as finding individuals who would perpetrate or take a participation in perpetration of a terrorist act, and association with asocial or other groups due to giving a contribution in perpetration one or more terrorist acts. Council of Europe Convention on the Prevention of Terrorism, Council of Europe, Warsaw, 16. V. 2005.  
<http://conventions.coe.int/Treatv/en/Treaties/Html/196.htm>



This, certainly, requires a strategic assessment of terrorist threats imposed to BiH in order to identify areas the most prone to terrorist activities.<sup>35</sup> Protection of citizens and critical infrastructure in BiH, including the physical and technical one, as well as protection of traffic infrastructure (road, railway, air and waterway transport), should have as a result identified guidelines and minimal standards and issued publications on protection from terrorism in critical zones (destinations),

3. Dismantling and investigating terrorist activities implies measures and activities against terrorists which include dismantling terrorist plans, prevention of networking terrorists, breaking off financial support to terrorist activities, and providing evidence for certain terrorist action/act. It is necessary to gather information, deliver analyses, exchange data on operative capacities of terrorist organizations (leaders, members, arms, funds, communication, advertising material and other resources), as well as to develop and enhance the system of gathering terrorist-related data. At the same time, the attention should be paid to development and improvement of technical capacities for monitoring and analysis of open sources of information about terrorist activities, and to the exchange of information between BiH law enforcement agencies and with international organizations (EUROPOL, INTERPOL, SECI center, etc.), with the possibility of forming joint investigative teams. Terrorists' movements and activities should be prevented through criminal/tactical measures and activities, actions aimed at obtaining evidence and special investigative actions. The funding of terrorist activities should, also, be prevented by reducing their access to financial and economic resources, by development of crime-intelligence capacities with the aim of gathering data about terrorist financing, as well as by development of methods for tracing terrorists' financial flows that are realized through informal banking sector or NGOs. It is of great importance to work further on prevention of terrorists to come into possession of arms and explosives, or to deal with their illegal traffic.

4. Response to terrorism includes measures and activities aimed at management and minimization of the terrorist attack consequences, emphasizing the need to coordinate all subjects in a society while working on a recovery from the consequences and providing assistance to the victims. At first place, it is necessary to enhance the institutional capacities in BiH in order to ensure their optimal and efficient role in the fight against terrorism, but also to establish special organizational units which would exclusively cope with all forms and types of terrorist activity. Continuous presence of professional subjects, such as court, prosecutor and police authorities, and their constant education and specialization for fight against terrorism, are the thing highly needed in these terms. Alongside with institutional capacities enhancement, it is, also, crucial to develop and harmonize legislation-related capacities for the fight against terrorism. It suggests the persistence on the full ratification of all international charts and conventions, as well as identification of the necessary amendments of the current legal regulations in terms of implementation of international agreements (resolutions and conventions of UN and Council of Europe, as well as obligations taken by signing of Stabilization and Accession Agreement). Furthermore, certain work should be done on the improvement of the regulations that can contribute to more efficient terrorism prevention, which implies that Law on fight against terrorism and financing terrorism should be proposed as *lex specialis* and should include protection of, assistance and compensation to the victims of terrorist attack, as well as special investigation actions in shortened procedure, witness protection, etc. Civil capacities should also be

<sup>35</sup> A condition necessary for performing strategic analyses in terms of terrorism as social phenomenon, or operational analyses in case of concrete terrorist acts, is possession of relevant data bases. Nowadays, those bases are computerized with software possibilities of making comparative analyses based on the given terms or key words. See: Simonovic, B. *Kriminalistika*, Kragujevac: Pravni fakultet Univerziteta u Kragujevcu 2004, pg. 662.



improved in order to respond to terrorism in a proper manner (healthcare institutions, media, schools, etc.), starting with the training about behavior in a case of terrorist attack, all up the recovery from the consequences of that attack.

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