

## Terrorism on the Limits of the Legal Science

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### Abstract

*This article will be focused on the political crime which means all political offenses and criminal offenses which is expressly prescribed by the criminal law of a state. Briefly, according to the science of psychology, characterization of a crime in general is of special importance and decisive motive of its author. So, regardless of the offense committed, if its author is no political motive, then his works have described as a political offense. According to the theories of realism, given a definition named differently as psycho-social dynamic, which considers terrorism as a political offense in all cases when the perpetrator, the victim or any institution structured social qualifies it as a political offense. From the moment the first setting of a particular criminal offense as political, she should be treated as such by the other participants in the proceedings. Every society, time and state has its political crime. This form of criminal action is always present when certain political forces with different criminal tools, are trying to change, alternation or preservation of the existing order and socio-political. So, in all ages and countries has been a political alternative structure, criminal manifestations of which, unlike other forms of criminal activity, are labeled as "political crime.*

**Keywords:** criminal offense, political crime, criminal manifestations, criminal tools.

### 1. Introduction

Approach legislative & contractual and criminal phenomenon of terrorism by some national legislations Europe and the EU itself, firstly provides an opportunity to identify issues that this phenomenon offers as issues of science offense and secondly describes the path to be followed by each study genuine phenomenon. A key finding was that the concept of terrorism is analyzed and then define the overall dimensions of outside legal science, but has been sanctioned repeatedly in the legal texts with the result or application without a specific criteria of the latter (in the case of national jurisdictions in the will of the executive power) or the possibility of signing or ratification of international agreements (when it comes to international relations). So should approximation of the concept of terrorism in extrajudicial dimensions. Only in this way will results eventually find a political nature to his foundation. When during practice terrorist affected legitimate interests, this phenomenon enters in the space of interest tax, then the only condition for the preservation of a political nature provided by a comparison of the components of the concept in the face of political crime concerned or, as here it argued, comparing the entity that exercises terrorism with political criminal. If you compare these two dimensions results in the acceptance of the relationship of dependency of the entity that carries terrorism (and his act is of interest from the criminal) then, the political character of the perpetrator of this criminal act is existent at all stages of the fulfillment of the state's criminal legal maxim against the consequences of this criminal act and political at the same time. If, in contrast, the comparison of these dimensions results in the failure, of the relationship of dependency, then the justification of the accused that his act is a political act of imposing his beliefs and ideology he espouses, is entirely without interest for criminal proceedings. Now this comparison, which presupposes and implies a level of abstract, definition of limits between the concepts of terrorism and criminal political, empirical application or not special treatment favorable criminal policy is impossible without a preliminary research. As for political criminal gave up some suggestions about the components of the criminal type, I believe now is the right time to consider, in theory, the relationship of dependency potential criminal phenomenon of "terrorism" and criminal political or, in the view here adopted, a political entity that carries out terrorism and political criminal. There would probably be inappropriate and wrong repetition of thought according to which there arises the question of exclusion reverse two notions, crime and politics, and virtually finding coexistence policy and crime allows comparison, in the framework of science Criminal , the political criminal and terrorist. But, despite the fact that the concept of "political criminal" precisely this opportunity of coexistence confirms us, there are few cases for which, in the theory of criminal law expressed views on the alleged incompatibility between crime and politics. According to the doctrine of Greek, can be added here (based on the interpretation of Article 29, first paragraph of the Greek Constitution) that allowing the establishment and functioning of political parties, those in their programs

provide for the implementation of acts defined as terrorist acts, will constitute high treason, but the simple formulation in article 29 of this Constitution, a warranty clause ("... or organization and activity of which must serve the free functioning democratic regime) except that serves a suitability tactical directly related to the specific conditions of the Greek and consists of fears of political forces in the expansion of the scope of this provision prohibitions which, the latter shall have the right and obligation, of doing opposition within policy. It also confirms once again the incompatibility between politics and crime. Self, therefore, the criminal nature of the act, it is not sufficient to exclude it from the political process. Obviously, the author of any crime and claim him, setting as a political criminal (and in criminal proceedings), is abusive and can not stand. There is a point beyond which political elements of a crime or political characteristics of its authors have no interest in criminal proceedings. But this "indifference" must not be the result of violent forms of DE politicization, but instead, should be clearly defined by monitoring the fulfillment or non-political elements that describe crime. Classic examples of abstract definition of the limits of political criminality can be mentioned:

- a. The opinion of the Institute of International Law, as expressed at the summit in Geneva in 1892, and especially in Article 2 of the final text adopted, "not be considered as political crimes, those who constitute the more serious, in terms of values and principles of traditional law, the crimes of murder, poisoning, mutilation, intentional serious injury, attempted in the aforementioned crimes, arson attacks on property, with explosive eruptions, floods, thefts and robbery serious consequences",
- b. The opinion of Sottile, when in 1938 he wrote that "political crime without being anything but an expression of a political ideology, can not, in practical application, only handle the ideological methods". "Ideology" of course here (in 1938) could possibly want to declare a moral connotation that should accompany the criminal act politically, but perhaps may establish and "moral crimes" (acceptance of a particular ideology constitutes a criminal offense, as for example sanction in the law 509/1947 and in particular Article 6, paragraph 1 or the law of 19/03/1939-tion in France in connection with "any activity aimed at spreading the International line
- c. Third. "However, as the one or the other case, the basic criterion by which politics and crime are excluded mutually, is the term" ideology ", which can not help but be excluded from a specific target definition.

In the analysis of dimension extrajudicial the phenomenon of "terrorism" within the legal science is often argued and was identified as basic difference between state terrorism (in international relations, the state "terrorist" in international relations and in order domestic law, the state "terrorist" in sovereign territorial space) and terrorism that initiates and guides society against the state. But in practice there is a bias to use the term. Legal arrangements referred terrorism that runs against the rule of law, completely ignoring the state terrorism. To this end, we note that the fundamental law of any modern state, its constitution specified procedures that tend to exclude the legality of those acts of the executive power, which are approaching the limits of state terrorism. Executive usually supports " the exercise of his terrorism " in the existing rule of law predetermined order. There must of course be denied that there are such cases, such as "disappearances" in Argentina during the dictatorship of recent military that state terrorism is not exercised only by using the legal order existing, but also in violation of the latter, Despite its totally separate law passed by it. Therefore in such cases, state terrorism may be of interest to criminal law at the time, but usually crimes committed during the practices state terrorism, prosecuted and punished after the fall of the regime that exercised within a new order modulation or in transition, political and legal. Therefore, here we are mainly concerned about terrorism exercised against the state of law. Finally, before we begin a description of the relationship between terrorist and criminal policy, we need to clarify a matter of terminology. Besides discourse current political calls typically terrorism as "international phenomenon" order (showing a center hearth international from which stems), ignore the social and political causes that the initiate, and to present it as a " simple initiative of a regional international criminal organizations', this term is used often and circles of lawyers, and here there is a need for a clarification. The adoption of the term 'international terrorism' 'by legal science, can not be understood only as a reflection of a reality conflicts of competence (which usually brings the exercise of a viable terrorist among more than two legal orders national of a competency-criminal jurisdiction), a conflict that is regulated under international criminal law.

The term "political crime" for the first time was used during the French bourgeois revolution in terms of the description of political agitation, which took place against the New Republic. Political crime, as activity directed against the existing legal order, undoubtedly has a theme completely different from the usual criminal activities despise pack that is the same fundamental rights as the latter, as, for example, criminal offenses against life and health, crimes against property, offenses against the health of people, offenses against the security of persons and their property, etc. This means that political offenses, unlike other forms of criminal action, are characterized by a very different political motivation of their perpetrators. Motive of political offenses, although to be hiding in the scene, the court clearly indicated that criminals common, unlike the executors or the initiators of political offenses, usually with the help of lies, corruption or various influences witnesses, try to deny their actions. Meanwhile, political offenders, primarily, behind the acts

committed. These, by publicly defending their doctrine of political ideology or their and dogma respective religious, so even before the judge, trying in this way to influence the direction of increasing the sympathy of their political and their popularity, which I believe is part of their strategy, particularly in recruiting new members. On the grounds of political offenders, we can conclude that political criminality at its core, though presented by distancing from personal character, no such color, but first the institutional points of view is a public nature. This means that we are dealing with "a specific form of response to the specific circumstances of social life is with a specific political option".

## **2. Legal Definition**

According to this definition the notion political crime, means all political offenses which, as such, expressly prescribed by the criminal law of a state. Briefly, according to the science of psychology, the characterization of a crime in general is of special importance and decisive motive of its author. So, despite the work done, if its author is no political motive, then his works have described as a political offense. According to the theories of realism, given a definition, appointed otherwise known as psycho-social dynamic, which considers terrorism as a political offense in all cases when the perpetrator, the victim or any institution of structured social qualifies him as a political offense. Since the first moment of setting the particular criminal offense as political, it should be treated as such by the other participants in the proceedings. Every society, time and state, has its political crime. This form of criminal action is always present when certain political forces with different criminal tools, are trying to change, or alternating current, maintaining socio-political order. So, in all times and countries it has been a political alternative structure, criminal manifestations of which, unlike other forms of criminal activity are labeled as "political crime". Simply notion means all political crime "criminal activities directed against a state system, political regimes, state representatives, decisions and different political orientations." In many aspects of social sciences political crime is the real picture of the political system. Unlike other offenses, the political criminality usually manifested collectively. This means that, very rarely performed political offenses individually. So political offenses, carried out by different organizations or groups of persons, who do not in order to solve their problems individually, but for the replacement of certain reports and social policy. Political offenses mainly characterized by a high degree of planning, preparation and execution of their brutal. Usually, the execution of criminal offenses is characterized by an unusual style in terms of the selected methodic organization, accompanied by aggression, brutality and high social risk. Precisely on the basis of these elements aims and influence to raise one hand the sympathy and support of the desired measures social and turn the spread of terror and the increasing sense of insecurity to exercise the following and blackmail desired political decision. In contemporary practice, these forms are popular of manifestation of political crime. Political offenses committed by the democratic powers within them or are directed against the citizens or the state system of a democratic state against foreign nationals or foreign countries. The main feature of these offenses is misusing state apparatus to various political interests. Here it comes to corruption and misuse of various government services in terms of espionage, damage and compromise political opponents. Political offenses, directed against the state apparatus or his representatives usually performed by different groups of rebellious political and, as such, are provided in a clear and taxation with a state criminal law. Here we are dealing with political offenses as classical works, assassinations, sabotage, spying, kidnapping, etc. On the basis of applying the element of political violence, such offenses also called terrorist acts. Political offenses committed by the state apparatus of a dictatorial state against its own citizens. Here it comes to exercise terror state, which is usually performed in order to maintain certain political power. In different states totalitarian, brutally violated constitutional rights and basic human rights. In fact, there are rare cases of improvisation as the performance of various criminal acts in order to sentence political opponents or creating pretexts for their elimination.

## **3. Terrorism and Political Incarnation of Crime**

In general the meaning of political offenses depends on the political system of one country. In one state, a criminal offense can be termed as a terrorist act, while at the same time, in another state, the same work can be regarded as a heroic act or vice versa. This rivalry, or characterization in terms of political crime, did not exist only in countries with different social systems, political and economic. There are cases in the same state, described as a terrorist offense after a certain time is treated and regarded as heroic or vice versa. It noted in particular the recent political offenses meaning that of terrorism increasingly taking unilateral direction. In reality, the meaning of terrorism is reviewed and analyzed in different ways, little noticed but critical discussions concerning offenses political performed on the context or state representatives from different democratic systems. In this regard, the authors noted the various efforts to unify the notion of political terrorism crime and terrorism with revolutionary movements, wars or liberation. These authors, in their numerous works, did not examine the state terror, but mainly are oriented to the study and trial of various criminal acts

directed against state policy. These scientific shortcomings argue with the thesis that most states implement state terror as a response to terrorism or natural reaction. In many aspects, such views represent only a clear political bias. This does not aim to challenge the right of an author to the study of various phenomena of crime and general social terms desired, but to emphasize that among the various forms of terrorist action, there is no qualitative difference. The only difference that exists between state terror and terrorism has to do with the organization and scope of violence policy. At least two elements, in addition to the undoubted motive, must be met in order to be considered a political offense or be treated in the context of the terrorist act. The first element has to do with the scale, the level of organization of purchasers and performers, while the second has to do with the structure and size of social reaction, respectively, to state the offense. So, only when the violent activity advanced in the spotlight, and the fear of social response, only then can characterize an act of violent crime as a terrorist act. All terrorist activities should be subject to a fair trial and the punishment deserved by the entire international community.

#### 4. Social Crimes

Comparison of two dimensions with clear conceptual boundaries is difficult as understood in advance. It is generally recognized that in recent years, any attempts at these borders, was in fact, attempts, in one way or another as we shall see, to strip the phenomenon of "terrorism" of the elements of his policy, obviously not enjoyed the privileges of criminal political terrorist. In addition, however, difficulties and interest theory that presents a comparison of these two dimensions within the science offense is a matter more specific, from the moment that the determination of the relationship between them is essentially a any self that criminal law imposes procedures, which are mainly determined. The first attempt to partition the types of crime due to redesign its policy was launched in France by the law of June 1894-es, according to which, essentially constituted crimes "propaganda of anarchist acts" are not recognized as political crimes. By law, the ideological position of a political party may constitute a criminal offense, without the character of political crime. Similar laws were passed in France on 6 and 19 March 1939, and were directed against those who propagated the "Line of the Third International", in Greece by Law 509/1947, etc. It is clear here that we are dealing with the persecution of faith. Positioning ideological entity, does not count as a criterion for the classification of these crimes, but are defined by law as terrorist acts criminal, based on some elements considered as constituting a criminal offense. It is a crime "anarchist" or "Bolshevik". These crimes, which are not considered as political crimes or acts, and based on some of the existing theories of political crime, was an attempt to ' listed in a specific category, that of "social crimes". Absolutely and this classification was the result of the perception that prevailed in the late 19th century, according to which, the recipient only and the starting point of the policy was only the state, and everything that had to do with economic relations was not part of policy, but entered in the general area "of social issues. Today, this method of drawing the boundaries between political crime and terrorism is abandoned because:

- a) Prosecution of free faith is, first of all absolutely prohibited legally and theoretically at least, unacceptable, so it is impossible to conceive 'arrest anarchists etc,
- b) Abandoned the view that the policy is only the starting point of the state,
- c) And, finally, since some of the ideologies that inspire these "crimes" are now official ideology of a significant number of member states of the UN, it would not attempt meaningless attempts for a description to help identify "social crimes" in terms of the theory of Criminal Law. Priority has, beyond any further reference to social crimes, and she drew attention to us, the classification in this category, at that time, of a series of crimes being attributed an antisocial character. It would probably be correct in relation to the concept of "antisocial behavior", which will be called "antisocial" or "crimes against society", because these terms are actually contain a negative charge attributed to crimes anarchist terrorist. Rather, the term "crime social has (means) a positive connotation given for easily from one can conclude that" social "does not correspond to the purpose and motive of these" criminals ", but rather coincides simply on the grounds that the causes. As positive side theories of "crimes social" may be able to recognize their effort to delineate the boundaries between political crime and terrorism, based on some research, results analysis and classifications, to discuss so within the limits and logic that science offense. In support of these theories, research the characteristics of "terrorist act", which distinguish it from political crime, they gave the following results. The crime of terrorism "directed against public and political crime against the state and the political class. It is here for the theory already outdated state as a setter only and the starting point of policy and acceptance of theories objective political crime, according to which there are a number the goods "political" in violation of their consumed political crimes. With the criterion, the victim of the criminal act, crime, social opposes strangers (meaning all individuals in a given country without being concerned to identify the person, that is, without any exception), while political crime against the persons who are known to the perpetrators of the criminal act. political crimes author avoids publicity, unlike social crime, where he wants him.

## 5. The Case of the Kingdom of Spain

Characteristic of what has been said above is facing legal case of "terrorism" in Spain. Even before the Second World War, the Spanish penal law, perpetrators of crimes favoring political and social. So, under the revised Penal Code in 1944, the crimes as "terrorist" treated as a separate category of crimes as an opportunity of their inclusion in the category of 'social crimes' ultimately, would unfairly give the perpetrator, the status of the privileged political criminal. Legislative Decree of 28.09.1975, which was titled "anti-terror" 2/76 legislative decree dated February 18, which defined the jurisdiction under which it would be subject to "terrorist crime", Legislative Decree 21/78 30 June in connection with crimes that are consumed by armed groups and law 56/78 of 4 December 1978 which envisaged and punished the manifest of "terrorist acts" constituted then, according to the rules of the first post-war efforts to cope with this phenomenon. The law 82/1978 changes direction, alignment of Spanish legislation against the phenomenon of terrorism. Terrorism stops treating it as a crime of traditional criminal law and takes the position that belongs (according to me right at that time) in accordance with the perception of contemporary and conception psychological-law, which was discussed earlier in this thesis, that is not nothing but a method of exercise and political practice through criminal acts against life and property. Is based, this new logic of Spanish law, punishable crimes committed only to serve terrorist interests. But eventually, the Spanish penal code changes back new dogmatic orientation when in Sections 560-564 spells and again condemns "terrorist crimes". In science Spanish Penal Law stated that the reasons that led to the first turning point of the criminal law and the abandonment of the theory of "terrorist act" and was as follows:

- a) The inability of a dogmatic definition,
- b) Issues of "criminal technology", which made it impossible union in the criminal legislation of the special category of "such crimes"
- c) And finally, the fact that this category of "crimes", is nothing more but a constructive contrivance based on unstable elements and easily changeable. Example Spanish claims that, while the internal logic of the Criminal Code requires the above, a return to the concept of "terrorist crime" can not mean except from a side abandoning the logic of domestic criminal entails necessarily and self-limiting lawmakers criminal and on the other hand, also re-adoption of a category of crime non-existent (according to science offense develop until the 1980s), but at the same time being and need to theories more controversial by the observatories to rule law clearly allows the implementation by the judiciary of political elections of the executive who in this case rearranged to result in efficient efforts in the fight against terrorism.

## 6. Conclusions

The main element of two attempts to identify the relationship between terrorism and political crimes (crimes and DE politicization of the general social and specific) is accepting as comparable dimensions of terrorism on the one hand and political and crime on the other. As a suggestion to replace the method dominant today the boundary between terrorism and crime policy could be formulated that will challenge the assumption of previous efforts, and relying on the finding that the only way out of the impasse that leads theory of crime criminal political theory is political, I would recommend to define dimensions comparable to those of terrorist and criminal policy. In the approach to the phenomenon of terrorism can be extracted as the characteristic features of the entity that carries it (terrorism) as follows:

- a. He / she are always a member of a kind of group-based political ideology or religious dogma.
- b. Development of operational tactics, violate basic rights, infringements arising as a necessity of realization of the program of these organizations.
- c. the variety of crimes, but the similarity to each other, or motive, that raises a characteristic element of the terrorist identity of "continuity" in the development of criminal practice. More precisely the effects of terrorist attacks are causing violation of the interests and rights of the many and varied fundamental human at different intervals of time, and describing the general will which seeks to achieve the intended target.
- d. Makes it impossible to implement the policy objectives of the program of the organization or group to which it belongs. It is noted here that some of the characteristics of terrorist (a, b, d) in principle meet both the formal requirements of criminal policy. aa) involvement in a political formation (of any form) with the ideological basis extremes: bb) implementation through criminal acts of the political program of their own. Regardless of the particular difficulties that arise during and comparing the terrorist with the criminal policy, firstly, that according to the principle of their characteristics, as described here, leads to the following conclusion: to the extent that the practice of criminal political potentially points convergent policy and at the same time crime (crime), which means that these two concepts are not necessarily excluded(mutually exclusive), and the following and a terrorist (political party and he) has the right and other opportunities to pretend to preserve their political status

and the area of criminal law.

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