

## Conference Paper

# Modern Mechanisms for Countering the Financing of Terrorism. New Challenges and Threats

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## Abstract

This article examines the problems associated with the financing of terrorism, combating the financing of terrorism and its international legal regulation. Characteristic features of international legal regulation related to the counteraction of terrorism financing, both in theory and in practice are analyzed. The necessity of joint use by the international community of available methods and means to counter the financing of terrorism has been identified and justified. Also, the article analyzes the existing approaches to understanding the financing of terrorism, and identifies the place and significance of measures to counter the financing of terrorism. Despite the presence of a significant number of regulatory legal acts, an effective system of countering terrorism on an international scale has not been formed yet. This is due to the lack of an integrated approach to understanding terrorism. A comparison of the provisions of existing international acts and the legislation of the Russian Federation allows us to determine the prospects for further improving the legal regulation of the sphere of relations. This research reflects modern problems of international legal regulation on combating the financing of terrorism, and gives ways of solving this problem.

**Keywords:** the ideology of terrorism, credit organizations, terrorist groups, the FATF group, combating the financing of terrorism.

## 1. Introduction

On nowadays, terrorist activity of organizations, groups and individuals is recognized as one of the main sources of threats to the national security of the Russian Federation and other countries in the sphere of ensuring public and state security.

Terrorism is the method by which an organized group or party strives to achieve its stated purpose through the systematic using of violence.

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Received: 11 December 2017  
Accepted: 20 January 2018  
Published: 13 February 2018

Publishing services provided by  
**Knowledge E**

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Selection and Peer-review under the responsibility of the FinTech and RegTech: Possibilities, Threats and Risks of Financial Technologies Conference Committee.

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Such a high degree of public danger of this threat, primarily due to the magnitude of the consequences of terrorist crimes and a significant number of victims because of their accomplishment. It is enough to recall the latest terrorist acts in Moscow metro, St. Petersburg, Kizlyar, Nalchik, Stavropol, Pyatigorsk and Vladikavkaz. Thus, going beyond the national framework, terrorism has acquired an international character. It became an "effective and effective instrument of deterrence and destruction."

## 2. Materials and methods

Nowadays, terrorism is rapidly growing. Its features include:

- extension of the geography of terrorism;
- expansion of the scope of aims and tasks of terrorist structures ("maintenance of the regime", "expulsion" of foreign power, "attacks on imperialism", etc.);
- an increase of the violent and destructive potential of terrorism;
- the highly organized nature (own infrastructure, presence of an extensive network of headquarters apartments, strongholds, etc.);
- the impact of terrorism acts to all areas of public relations in various regions of the world;
- active using of digital environment for the propaganda of terrorist activities, the recruitment of supporters (especially youth), financing, planning and coordination of terrorist activities.

The experience of foreign countries shows that it is possible to combat effectively to the threat of international terrorism only based on an integrated approach combining both force measures and activities to prevent this devastating phenomenon.

Russia considers the fact that an effective fight against terrorism is impossible without a reliable blocking of the sources of its funding that is required by the UN Security Council's profile resolutions and the international standards of the Financial Action Task Force on Money Laundering (FATF). At the moment, the financing of terrorism is considered as a very vulnerable part of its organization, so more attention is paid to the financial aspect of combating the terrorist threat. In this regard, our country pays special attention to enhance international cooperation in the sphere of combating money laundering and terrorist financing (AML / CFT).

Sponsors of financing terrorist activities are illegal sources (illegal drug trafficking, proliferating of weapons, other serious and particularly serious crimes), and quite

legal sources (charitable foundations and public organizations, and sometimes national governments that support terrorist activities for their political purposes). Providing material, including financial, support in the preparation, planning and implementation of terrorist activities can be presented in two forms.

The first form is the financing of a particular, specific crime of a terrorist nature or a group of such crimes. In this case, the actions of the person who is carrying out the financing, and the direct executor or executors of the terrorist action are coordinated in time, place and alleged harmful consequences.

The second form of financing is represented in the fact that the allocated funds are transferred to the terrorist organizations and are spent in the process of their activities or are transferred to a person or persons for carrying out terrorist acts in general. Furthermore, it does not specify in that form, place and time that specific crimes of a terrorist nature must be carried out. In general, the mechanisms and schemes of financing terrorism can be divided into the following groups:

- implementation of the process through traditional financial institutions;
- attraction of placement in non-traditional financial institutions;
- attraction of the non-financial sector;

#### 1. Placement through traditional financial institutions.

Traditional financial institutions engage ordinary financial business on the basis of a license or permit. These include banking and specialized non-banking financial and credit institutions (commercial banks, savings banks and associations, credit unions, mutual fund banks, pension funds, insurance companies, financial companies, investment funds) that are subordinated and managed by government regulators.

#### 2. Placement through non-traditional financial institutions

Non-bank financial institutions that actually provide banking services are called non-traditional. These include currency exchanges, securities brokers or precious metals, commodity brokers, casinos, organizations that provide telegraphic and postal services and services for exchanging checks to cash. Non-bank financial institutions can be used for money laundering in the same ways as traditional financial institutions, especially by structuring, subordinating and merging funds.

#### 3. Institutions of the non-financial sector. Non-traditional money transfer systems.

It is necessary to understand that terrorist financing operations involve the transfer of large sums. Therefore, a question arises: "How does their movement in the countries with extremely transparent financial mechanisms to a certain point remains unnoticed?"

The fact is that in the Middle East and beyond its territory exists "Hawala" - money transfer system, which is built on principles of efficiency and strict secrecy. If international payment systems charge about 10-15% for money transfer, operators of "Hawala" are satisfied with 1-3%. The principle here is the same as in the usual payment system: the operator accepts money from the client, notifies his partner in another country and he pays the required amount from his means to the addressee. Turnover of funds through such channels is so great that dealers can not worry about debts. Trust between them is built on family, clan and ethnic ties.

In addition, terrorist organizations like Al Qaeda and Hezbollah receive a significant portion of the proceeds from the sale of drugs. According to experts, up to 35% of all money from Al-Qaeda comes from the drug business.

Likewise, the Afghan Taliban movement is also funded by income from the cultivation of opium poppy.

The most important source of financing terrorism is also money laundering of various kinds. Below there are the diagrams and an examples.

### 3. Results

A reliable way to stop this practice is to make the cash flows around the world extremely transparent. Measures taken by different countries to enhance the transparency of financial flows, give their results. For example, in November 2001, the US Treasury froze the accounts of 62 organizations and private individuals who were accused of having links with the At-Takwa Bank, through which accounts money was received to finance Middle East terrorism. Subsequently, 272 people were arrested and accused of complicity in terrorists by the Americans, while \$138 million were frozen on the accounts of these and other persons.

### 4. Discussion and improvement of combating to the financing of terrorism

Anti-terroristic operations should include the anti-criminal measures (tracking and blocking of illegal cash flows, freezing of suspicious accounts, tightening of customs control). However, it is also require the development of a specific strategy and tactics for combating terrorism.

Summarizing the analysis of the financing of terrorism, we can formulate the following practical recommendations for Russia.

First, in order to fight effectively, it is necessary to monitor the structure of the inflow of financial resources to terrorists, in order to concentrate the strikes, primarily on the main streams, by strengthening even smaller "brooks".

Secondly, the struggle against the shadow economy as a breeding ground for financing terrorism must become the most important method of combating the financing of terrorism.

Thirdly, it is advisable to introduce into the Federal Law "On Combating Terrorism" a special section dedicated to combating the financing of terrorism, or even develop a special Federal Law "On Combating the Financing of Terrorism" which will include extended interpretation of this concept (financing not only a specific act of terrorism, but also an organization recognized as terrorist). The financing of terrorism is a type of financial crime with destructive effects that are hidden behind harmless financial transactions and have the ability to destabilize society. Terrorists often carry out their activity through their networks with the help of hidden financial support structures. It is important to remove the flaws in the legal financial system that are used to launder criminal proceeds and support terrorist activities.

In this article, we develop proposals for improving the norms of Art. 205.1 of the Criminal Code aimed at improving the effectiveness of their application, as well as proposals to improve the norms of the Federal Law on Combating the Legalization (Laundering) of Criminally Obtained Incomes and Financing Terrorism and the Federal Law on Combating Terrorism.

Our recommendations against the financing of terrorist activities have a novelty. The scientific novelty of the study is characterized by the main provisions that are put on defense:

1. The name and content of the term "financing of terrorism" is needed to be adjusted. In connection with this paragraph, Art. 205.1 of the Criminal Code is proposed to read as follows:

"Notes. 1. Financing of terrorist activities in this Code means the collection or provision of money or other property or the provision of financial services with the knowledge that they are intended to ensure the organization, preparation or commission of at least one of the crimes provided for in Articles 205, 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279 and 360 of this Code, or to provide an organized group, illegal armed formation, criminal community (criminal organization), created or created for the purpose of committing at least one of these crimes."

2. In Art. 205.1 of the Criminal Code of the Russian Federation, should be made the following changes: in the first paragraph of Part 1, after the figures "205," add the

figures "205.1, 205.2," after "211," add "220, 221," with the phrase "terrorist financing" replace by "Financing of terrorist activities".

3. The presence in the disposition of Part 1 of Art. 208 of the Criminal Code of the Russian Federation, the rules on liability for financing an illegal armed formation create conditions for its unacceptable competition with the norms of Art. 205.1 of the Criminal Code of the Russian Federation, so it is advisable to exclude from Part 1 of Art. 208 of the Criminal Code of the Russian Federation, the words "or its financing".

4. A terrorist financing entity committed through the provision of financial services must have a special legal capacity or be licensed to carry out those activities that are part of financial services. If the financing of terrorism is committed by a person providing financial services without registration or without a license, such actions, if they caused great damage to citizens, organizations or the state, or involve the extraction of income on a large scale, should be qualified as a set of crimes under Art. 205.1 of the Criminal Code of the Russian Federation and, depending on the circumstances of the case, art. 171 or art. 172 of the Criminal Code.

5. Actions of a person who facilitates the commission of crimes under Art. 205, 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279, 360 of the Criminal Code of the Russian Federation, the collection or provision of cash or other property or the provision of financial services intended for their financing shall be qualified only under Art. 205.1 of the Criminal Code.

In cases where a person, acting as the organizer of a crime of a terrorist nature, at the same time carries out its financing, the act must be qualified as a set of crimes provided for in Art. 205.1 of the Criminal Code of the Russian Federation and the relevant article of the Criminal Code of the Russian Federation on liability for a crime of a terrorist nature with reference to Part 3 of Art. 33 of the Criminal Code.

6. The person's actions to finance an organized group established to commit crimes under Art. 205, 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279, 360 of the Criminal Code of the Russian Federation, it is proposed to qualify as follows:

- only under Art. 205.1 of the Criminal Code of the Russian Federation, if the person is not a member of the an organized group, but assists its terrorist activities by financing. Otherwise, a person should be held criminally responsible for specific crimes of a terrorist nature, in the preparation or commission of which he participated;

7. in the further, certain provisions of the Federal Law "On Combating the Legalization (Laundering) of Proceeds from Crime and Financing of Terrorism" and the Federal Law "On Counteracting Terrorism" is needed to be improved, in particular:

- in paragraph 5 of Art. 7 of the Federal Law on Combating the Legalization (Laundering) of Criminally Obtained Incomes and the Financing of Terrorism, it is necessary to establish an absolute prohibition on the conclusion by credit institutions of a bank account agreement (deposit) and other contracts (transactions) with anonymous persons, that is, the representative of the client of the documents confirming the information necessary for the identification of the client, the representative of the client, or in cases of submission by the client, the client's representative of unreliable documents in containing such information. In this regard, in paragraph 5.2 of Art. 7 of this Federal Law, the third paragraph should be deleted;

- in part 2 of Art. 24 of the Federal Law "On Combating Terrorism" it is advisable to exclude the reference to Art. 280, 282.1, 282.2 of the Criminal Code of the Russian Federation and the phrase "as well as in the event that these actions are carried out by a person who controls the implementation of the organization's rights and obligations."

## 5. Conclusion

Theoretical and practical significance of the research is determined by the fact that the conclusions, recommendations and proposals contained in this article can be used:

1) in the legislative activities to improve the criminal legislation of the Russian Federation in the regulation of liability for the financing of terrorist activities, as well as the provisions of the Federal Law on Countering the Legalization (Laundering) of Criminally Obtained Incomes and the Financing of Terrorism and the Federal Law on Combating Terrorism;

2) in the activity of law enforcement agencies for the proper qualification of the actions of a person who finances crimes of a terrorist nature;

3) in research work in the course of further development of topics related to countering the financing of terrorist activities;

4) in teaching and methodical work in teaching courses in the General and Special Part of Criminal Law, special courses on the theory and practice of qualification of crimes and the imposition of punishment, as well as on courses for improving the qualifications of investigative and judicial officials.

## Acknowledgements

This work was supported by Competitiveness Growth Program of the Federal Autonomous Educational Institution of Higher Education National Research Nuclear University MEPhI (Moscow Engineering Physics Institute).

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