

Extremism and terrorism: problems of legislative definition and criminal law countermeasures

Irina Alekseevna Efremova^{1*}, *Elena Alekseevna Koloyartseva*², *Egor Timurovich Maslov*², *Yana Vadimovna Malinina*², and *Anastasia Mikhailovna Shuvalova*²

¹Saratov State Law Academy, Department of Criminal and Penitentiary Law, Saratov, Russia

²Saratov State Law Academy, Department of Prosecutorial Supervision and Criminology, Saratov, Russia

Abstract. The world community is undergoing significant changes. Along with positive development processes, there are also negative ones – extremism and terrorism. A comprehensive analysis of extremism and terrorism will make it possible to identify the problems of their legislative definition, legal regulation, criminal law counteraction and develop proposals for improvement of the current domestic legislation in this part. The research methodology is represented by the dialectical method, general scientific (logical, analysis, synthesis, systemic) and private scientific (formal legal) methods. Results of the study: it is proposed to define at the legislative level the terminology of the concepts of “extremism” and “extremist activity”, to make a legislative distinction and formalize their legal definition, as well as the legal definition of crimes of a terrorist nature (the latter should be defined in the footnote to Article 205⁴ of the Criminal Code of the Russian Federation, indicating the list specific criminal encroachments, adding this definition to the resolution of the Plenum of the Supreme Court of the Russian Federation dated July 28, 2011 No. 11); to separate the term “terrorism” from the term “extremist activity”. Conclusions: to distinguish the concept of extremism from extremist activity by amending specific regulatory legal acts and by-laws, to Formulate the concept of “extremism”, “crimes of a terrorist nature”. The novelty of the study is due to the non-trivial approach of the authors, which combines the innovations of domestic and foreign criminal law doctrine into a single complex to achieve the goal.

Keywords: global threat, extremist crimes, extremism, extremist activity, terrorism, criminal law counteraction

1 Introduction

A principal field of concern of every modern state is countering extremist and terrorist activities [1, 2]. Extremism and terrorism as phenomena not only generate negative consequences associated with a large number of victims, but also undermine the

* Corresponding author: efremova005@yandex.ru

foundations of the normal functioning of the state and political system, exacerbate social conflicts, encroach on the state of security of the population as a whole. Due to the fact that terrorism and extremism are a threat on a global scale, problems related to the study of extremism, extremist activity, terrorism and terrorist activities are dealt with by Russian [3-8] and foreign [9-12] scientists. Crimes of an extremist and terrorist orientation have an increased public danger. Extremist motives in the commission of crimes are circumstances that aggravate punishment. Extremism and terrorism violate the constitutional rights and freedoms of man and citizen, introduce the ideology of violence, generate hatred and destroy the social order. The study of the current normative legal acts of international and domestic legislation in this field makes it possible to formulate the concept of a system of measures aimed at countering extremism and terrorism, however, the existing domestic legislation in the field of countering the considered negative phenomena has significant shortcomings in the conceptual apparatus of these phenomena, and therefore needs serious improvement.

2 Materials and methods

The purpose of the study is a comprehensive analysis that makes it possible to identify the problems of extremism and terrorism, their legislative definition, criminal law counteraction and to develop proposals for improving the current legislation in this part.

Research objectives: to analyze the array of normative legal acts of domestic and international legislation in the field of countering terrorism and extremism, to determine their imperfection; to identify problems of legislative definition.

A traditional set of methods of scientific knowledge was used as part of the study. When studying the normative legal acts of domestic and international legislation in the field of countering terrorism and extremism, the universal dialectical method was actively applied; general scientific methods (logical, analysis, synthesis, systemic) were used to determine their imperfections; private scientific (formal legal) method [13] was used to identify problems of legislative definition. The specified set of methods makes it possible to ensure compliance with the principles of scientific knowledge and the logic of research.

3 Results

It is proposed to define at the legislative level the terminology of the concepts of “extremism” and “extremist activity”, to make a legislative distinction and formalize their legal definition, as well as the legal definition of crimes of a terrorist nature (the latter should be defined in a note to Article 205⁴ of the Criminal Code of the Russian Federation indicating a list of specific criminal attacks, adding this definition to the resolution of the Plenum of the Supreme Court of the Russian Federation dated July 28, 2011 No. 11); to distinguish the term “terrorism” from the term “extremist activity” by excluding from the legislative definition of extremist activity the reference to the public justification of terrorism and other terrorist activities.

4 Discussion

In accordance with the semantic concept, extremism is a commitment to extreme views and measures [14]. Currently, the Russian legislator has formalized the legal definition of extremist activity, as well as the definition of extremism in Art. 2 of the Federal Law “On Counteracting Extremist Activity”, through a list of specific actions recognized as such: changing the foundations of the constitutional order by force and violating the territorial

integrity of the Russian Federation through violence, with the exception of delimitation, demarcation, redemarcation of the border of the Russian Federation with other states with which it borders; committing criminal offenses for extremist motives, etc. This list is defined by the legislator as closed and not subject to broad interpretation. However, the lack of legal regulation is that the terms “extremist activity” and “extremism” are equated.

There is also a legal definition for the term “terrorism”, which is proposed to be understood as a certain ideology associated with violence and influencing decision-making by state, municipal authorities or international organizations, associated with intimidation of residents and (or) other forms of violent acts. The concept of terrorist activity is associated with actions aimed at committing terrorist acts, training terrorists, as well as promoting the ideas of terrorism. In the law under consideration, these concepts are not identified by the legislator. At the same time, the legal definition of extremist activity (extremism) covers the justification of terrorism carried out publicly and other terrorist activities, which, according to the meaning of the interpretation, can include all actions defined at the legislative level as terrorist activities.

Despite the fact that terrorism and extremism are disclosed in legal acts, there is no common position among the scientific community regarding their definition. Some scientists come to the conclusion that extremism is a state of struggle for power, which will be committed by criminal means, with the aim of destabilizing the constitutional order, public safety. This struggle is based on a specific extremist motivation [15]. According to others, extremism is not a state of struggle for power, a method of radical denial of legal, social prescriptions, established customs and traditions [16].

Terrorism in legal science is often defined as a criminal offense underlying organized crime, which uses a specific ideology associated with violence and influence. In the future, the presented definition repeats the legislative definition of terrorism, expanding it through the threat of a person, society, state, peace and security [17]. Foreign researchers define terrorism as follows: the killing of civilians, innocent people; a strategy that consists of violent actions aimed at harming people (directly or indirectly) [18]; implementation of coercion, intimidation of the population through violence for political or religious purposes [19]. Seumas Miller and Jonas Feltes distinguish three components that, in their opinion, characterize terrorism: violence is intentionally committed, with the aim of causing harm to persons who have not violated rights and freedoms and are not revolutionaries; intimidation of members of a particular social, economic, ethnic or other group is carried out by means of intimidation; the violence committed should receive publicity (to the extent that it is necessary in order to cause fear in certain individuals) [18]. Obstacles to the adoption of a single definition are different approaches to the interpretation of terrorism, arising from cultural-religious and socio-political differences [20].

Criminal legal counteraction is due to the establishment of criminal liability for committing terrorist crimes [6] and extremist orientation, the object of criminal law protection of which is public security. There is no conceptual apparatus of terrorist crimes. However, this term is actually revealed by the law enforcer through a list of specific elements of criminal offenses, as well as extremist crimes, linking the latter with a certain motivational orientation – extremist. Consequently, there is an increase in the list of these criminal attacks.

The legislation should distinguish the concepts of the terms under consideration and exclude from the definition of extremist activity aspects related to the public justification of terrorism and other terrorist activities at the level of the terminological apparatus, because these phenomena carry a different semantic, terminological and essential load. Such an approach excludes the independent existence of terrorism and terrorist activities. Therefore, in science, terrorism is understood as “the most radical form of manifestation of extremism” [15, 16], which leads to an unreasonably narrow understanding of the definition

of terrorism. There is a need to clearly define the legislative terminology of the concepts of “extremism” and “extremist activity” by separating them independently at the legislative level, it is advisable to formulate a definition of the concept of “extremism”, “extremist activity”, as well as a legal definition of crimes of a terrorist nature, fixing it in a note to Art. No. 205⁴ of the Criminal Code of the Russian Federation, indicating a list of specific criminal offenses, supplementing this definition with the decision of the Plenum of the Supreme Court of the Russian Federation of July 28, 2011 No. 11.

5 Conclusion

A comprehensive analysis of extremism and terrorism made it possible to distinguish the concept of extremism and extremist activity and propose their differentiation in the current legislation by amending specific regulatory legal acts and by-laws, to isolate the term “terrorism” from the term “extremist activity”.

The results obtained correlate with the purpose and objectives of the study, testify to their achievement. They can serve as a basis for improving the current legislation in the designated area. However, the stated topic requires further research by the scientific community, for example, in terms of identifying other problems of criminal law countering extremism and terrorism.

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