

**CRIMINALISTIC ASPECTS IN DETECTING, SOLVING AND PROVING OF
TERRORIST FINANCING**

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Abstract:

The main topic of the paper is elaboration of the criminalistics characteristics that are associated with the process of detecting, clarifying, solving and proving terrorist financing. The focus will be on the analysis of the following features that are used in the process of collecting evidences: the way of committing the crime (modus operandi), the criminal situation, and traces of the crime, the offender's personality and the personality of the victim of the crime.

Financing of terrorism is a contemporary social phenomenon which is characterized by its international character in terms of its perpetrators and the area of its committing. They provide their sources of funds through different ways, which quite often are illegal and via other forms of organized criminal activities. Funding is an important stage in the planning and implementation of terrorist activities and operations, which help the terrorists to spread their ideology and maintenance the terrorist organizations.

The main objective to accomplish is finding a suitable, adequate and effective measures and activities that will be used by the financial investigation services for timely detection and prevention of financial transactions intended for terrorist activities.

Key words: terrorism, financing of terrorism, criminalistics characteristics, funds, terrorist acts

INTRODUCTION

After the terrorist attacks in the U.S. on September 11, 2001, i.e. after a few minutes during which it was necessary to break down the two towers at the animal to lose thousands and millions of dollars lost a lot of things have changed. By then in previous terrorist attacks the organs of law enforcement measures and activities carried out on the scene after a terrorist act. Cream-technicians collecting evidence and explosives experts searched for traces of weapons and they followed the trail leading to the perpetrators. But after the attacks many people realized that this way of fighting terrorism does not bring any results. Also they realized that this struggle should be fought with an enemy that is well funded. The aspect of financing is of paramount importance because no matter how big your motivation, training, discipline is and so on. They cannot be used if there are no funds. The terrorists who were responsible for those attacks had not sufficient funds to carry out the work but also certain amounts of money remained.

Financing of terrorism is a term used to describe the adaptation, the provision and collection of financial transactions that can be directly linked to terrorists, terrorist activities and terrorist organizations. Also it is a fundamentally simple concept expressed through financial support in any form of terrorist activities or those who encourage, plan or be involved in their implementation.

As an important stage in the planning and conduct of terrorist activities is the provision of financial resources for implementation and dissemination of their ideology, and maintenance of terrorist organizations themselves. They strive to achieve maximum results through minimum spending their resources. Although it is assumed that the terrorist act is inexpensive, there are hidden costs. Most funds are spent on¹:

- delivery and storage of weapons, ammunition, explosives and other spray materials;
- recruiting new members;
- establishment and maintenance of terrorist training camps for members of the terrorist organization;
- providing "safe haven" - secret storage bunkers for weapons and other means;
- transportation of members and weapons to the place of execution of terrorist act;
- providing false identification and travel documents;
- means of bribery of government officials;
- means of communications and
- Other related activities.

Under the principles of international and domestic law is what responsible person engaged in the financing of terrorism, if that person directly or indirectly, provides or collects funds with the intention or knowledge that they will be used to perform an act of terrorism. Financing of Terrorism refers to the transfer of funds from source to end-users or short relief and said enabling terrorist activity. The terrorist group or organization builds and maintains infrastructure to facilitate the development of sources of funding, channelling funds to those who need to use them.

¹ More about this: Медингер, Ц., Перење пари - водич за кривични иследници, Скопје, 2009, p. 369-374

Financial resources are the driving force of which terrorist activities depend. It can best be described as octopus with pips which is prevalent in a wider area that involves more religious, social, economic and political organizations. The terrorist activities are necessary access to funds at all stages, starting from planning till execution of the attack. Terrorist organizations and their global networks can successfully implement their deadly agenda without financial resources.

CRIMINALISTIC CHARACTERISTICS OF THE TERRORISM FINANCING

The portrait of the terrorism financing that occurred in the world can be formal or informal global financial system that terrorists could easily manipulate. Different and dispersed sources of terrorist financing and methods of funds transferring are equally exploited by the decentralized and flexible terrorist networks that can easily change to another form in order to respond to the efforts required by their activities.² The terrorism as a global phenomenon develops and changes its forms of action, and most importantly, the ways of access to the financial resources for realization of terrorist plans are changing, too.

The criminalistics characteristics of the criminal acts are an abstract scientific concept and in that capacity they exist in the Criminal Sciences. Their significance not just a scientific - theoretical but also practical significance is reflected in the creating of such an organization and proper strategy to combat crime which will be based and which will fully respects the properties characteristic of certain types of criminal offenses or for the whole group similar offenses . The criminalistics characteristics of the criminal acts determine the specificity of the fight, not just on scientific - theoretical, but on practical plan, too. The characteristics of the crime at the very core of specificity determine the specific criminal event and the properties of the perpetrator, in the broadest sense. Starting from the regularities and specifics of the occurrence, the fixing and the use of criminalistics (operational and proven) information disclosure and clarification of the

² Giraldo, K., Jeanne, Trinkunas, A., Harold, Terrorism Financing and State Response, Board of Trustees of the Leland, Stanford Junior University, 2007, from http://books.google.com/books?id=BOfC7vJOsdIC&printsec=frontcover&source=gbs_slider_thumb#v=onepage&q&f=false p. 11 [accessed on the 15.06.2016]

crime, are accomplished through the discovery of the cause - effect relationships and influences, dynamic relationships and regularities that certainly exist in every criminal event.³

In terms of the content of the characteristics of the crimes, there are different views on their content. For us, the most interesting is the classification of the content of the characteristics of criminal acts whose content consists of:

1. Method of committing the crime – modus operandi;
2. The crime situation;
3. Traces of the crime;
4. Personality of the offender;
5. Personality of the victims of the crime.

TERRORISM FINANCING METHOD

The way of committing a crime carries within and conditions the regularities of the occurrence of the case of operational and evidentiary information and as such element of criminalistics characteristics, it is necessary for the crime to get revealed.⁴

Also, the manner of execution of the crime, as one of the most important criminological characteristics have a decisive importance for the criminal procedure, if it occurs as a basis for setting goals and versions so that affects the determination of the direction of the research and the resolution of other issues of importance for the discovery and elucidation of crime.⁵

All criminal acts are characterized by specific ways of acting. They manifest a specific form of criminal activity through a system of procedures and actions of the delinquent, in order for him to come to the practical realization of his intentions through the act of carrying out his work. By the realization of the act of execution, the perpetrator intends to destroy the real traces and create new, artificial, intended the criminal process of knowledge to steer in the wrong direction,

³ Ангелески, М., Криминалистика, НИО Студентски збор, Скопје, 1993, р. 119

⁴ Vodinelik, V., Sta je otkrivanje, a sta razjasnjivanje krivicnog dela i razotkrivanje ucinioca, Beograd, p. 79

⁵ Белкин Р.С., Криминалистика: проблеми, тенденции, перспективи, Од теорије к практици, Москва, 1987, р. 175

to achieve a criminal purpose and permanently enjoys the fruits of the crime. The study of the manner of execution of the criminal serves for prevention of crime (preventive criminology).⁶

The financing for the terrorism is like the water for the people, without it the living is not possible. The terrorists are the fiercest enemies of the people's freedom and the civil life, the values and principles that are the foundation of the open societies.

The terrorist organizations finance their activities within the legal remedies that are mostly found in the establishment of certain companies (the gas stations, travel agencies, etc.), funding from non-profit and non-governmental agencies and organizations (religious, ethnic, charitable, cultural and other topics funding through grants, loans, subsidies, to scholarships), and even financing of terrorist organizations by personal savings from the pay of certain subjects. Besides the legal, there are also illegal means in the execution of the crime from various forms of crime, as already mentioned by: drug trafficking, illegal arms trafficking, human trafficking, extortion, blackmail, kidnapping, money laundering, trade with precious stones, sale and purchase of stolen luxury cars, fraud and others.

The solutions that can help us in the effective fight against the various sources (typologies and methods) of terrorism financing are essentially short-termed, and that is so because of the rapid change and adjustment of the nature of the terrorist methods.

From this stems the importance of the thinking and the studying of the terrorism financing from comprehensive, specialized and dynamic perspective.

CRIMINAL SITUATION IN TERRORISM FINANCING

The term criminal situation means the overall situation of the criminal case or the circumstances under which it is committed.⁷ The overall state of the conditions that were, or were not, in favor of the criminal act, in terms of the crime, is the criminal situation as a feature of the crime.

⁶ Ангелески, М., Криминалистика, НИО Студентски збор, Скопје, 1993, p. 121

⁷ Водинелиќ, В., Криминалистика, Скопје, 1985, p. 153

A successful terrorist organization and a successful criminal group is the one that is able to build and maintain an effective financial infrastructure. For its functioning are necessary sustainable sources, deterrents of these sources and providing material and logistical elements needed for the terrorist acts to be carried out.

The carrying out terrorist activities include funds raised from legitimate sources, such as donations and profits from legitimate businesses and charities, as well as by illegal activities such as drug trafficking, arms trafficking and other goods, kidnapping, extortion and others. These sources of financing terrorism are numerous and differ between groups. The sources of funds depend on the needs of the group and its capacity to generate funds.

The terrorists for finding financing sources use techniques like those of the money launderers in order to avoid detection by the law enforcement and to protect their sponsors and end users of the funds. However, the financial transactions related to terrorism financing tend to be smaller than those of money laundering, and in cases when the terrorists will fail to raise funds from legitimate sources, the detection and monitoring of such assets is becoming increasingly difficult. Funds collected by terrorist organizations have different backgrounds. Both, legal and illegal activities can be used for generating funds.

For the "movement" of their assets, the terrorist organizations use formal banking system, informal transfer systems as "hawala"⁸ and the oldest method of transferring funds, i.e. the physical transfer of money, gold and other valuables through smuggling routes.

Given that the Republic of Macedonia is still not discovered and proven any criminal act for terrorism financing, and adequate general conclusions about the criminal situation cannot be adopted. So, it cannot be determined exactly the specific time and place of execution, because in terms of these components there is no conditionality on the criminal act itself. The terrorism financing knows no boundaries and can be performed anywhere, given the openness of financial flows internationally.

⁸ More of this in: Dimovski, Z., Ilijevski, I., Babanoski, K., Maze of the financial assets in the process of money laundering in the function of the financing of terrorism, International scientific conference, and published in Book of papers „Fight against terrorism – international standards and law regulative“, Colege for interior affairs, Department of police education, Ministry of interior of the Republic of Srpska and Hanns Seidel Stiftung, Mrakovica, Kozara, 29-30.03.2011, pp. 113-128

THE TRACE OF THE MONEY IN FINANCING TERRORISM

The third feature of the criminal acts is the traces of the criminal act. Naturally, with the occurrence of the crime occurred the traces of it, which can be found on the scene. The traces give a special mark on the criminal actions within each separate criminal procedure. Under a trail of the crime in criminology we understand any visible or invisible to the naked eye material change occurred on the place of the victim or the perpetrator, relationship or situation of the crime.⁹

Unlike the classic criminal act, where the traces are found in all parts of the tripartite system (offender - victim - delict), the traces in terrorism financing are hard to be found. One of the most important traces for detecting such a criminal act is "the money trail". It is necessary to monitor the financial resources of the sender, to the end user. Bearing this in mind, financial means can be detected and monitored through the entire documentation composed for their transfers through legal financial flows.

The documents of payment and disbursement of the funds are an important source of information about the identity of the perpetrator, the places and the date of transfer and the end-users. Through this documentation it can be found traces of transaction accounts, signatures and seals of authorized persons who have performed the transfer and other elements which will reveal the terrorism financing.

In addition of the material traces that can be found in this criminal act, there are also intangible (ideal) traces. This primarily refers to the statements of witnesses, informers, collaborators, intelligence activity of law enforcement, crime versions and indications that suggest the existence of such a CD. All linked together and brought into relation with each other can form the genesis and course of criminal act of terrorism financing and to contribute to its discovery and clarification.

⁹ Водинелиќ, В., Криминалистика, Савремена администрација, Београд, 1985, р. 153

PERSONAL CHARACTERISTICS OF THE PERPETRATOR OF TERRORISM FINANCING

The sum of the features of the personality of the offender of a criminal act is a significant feature. Knowing and studying the personality of the perpetrator is needed from etiologic reasons and for correct application of the principle of individualization when imposing criminal sanctions and for achieving educational goal in the process of its execution. The personality research should be carried out at all stages - from the investigation to the enforcement of the criminal sanctions, as a person, as it is known, is constantly changing and can in certain stages of the criminal procedure and during the execution of the sentence to undergo significant changes . In criminology, also very carefully is examined the personality of the offender, his knowledge, skills, working methods that are applied in the execution and suppression of the crime, customs, attitudes, lifestyle and psychology, and everything in order of developing methods for detecting, proving, clarification and prevention of criminal acts .¹⁰

Perpetrator of the criminal act terrorism financing can be certain governments, states, non-governmental organizations, terrorist organizations, terrorists, supporters, etc., but that depends on the type of the financing of terrorism. However, the alleged perpetrator is a person who has the task of achieving their goal. Therefore an analyze of the personality of the terrorist and terrorist organization is more than needed.

Definitely, the answers of the question of "who are really terrorists" would certainly help to reduce the terrorism in the world. In this sense, in the opinion of many international experts for combating the terrorism should be taken into account the following: they believe that terrorism of non-governmental entities would be insignificant, even eradicated if they lose the support of various governments. Because each state is able to protect itself from domestic terrorism, or at least should be, such views are entirely justified.

Finally, given the relationship between the terrorism and other forms of crime, especially organized crime, the mafia, illegal trade, including weapons, drugs, people and toxic materials,

¹⁰ Алексић, Ж., Шкулић, М., Жарковић, М., Лексикон криминалистике, Београд, 2004, р. 173

raises several questions: Is terrorist a profession? Will we face terrorist threats every day? If there are training centers for terrorists, whether this implies the existence of a school for terrorists, trainers, teachers and professors? How long can be tolerated the existence of terrorism?

The persistence and the joint action are the essence of the fight against the terrorism, as well as the uncompromising and efficiency that the terrorism must not become a profession, or a force that will dictate the conditions in society.

A terrorist can be anyone, as there is no restriction on age, gender, religion and so on. In order to understand why a particular category of people become terrorists, it is necessary to understand the reasons why he has decided to become one or what has motivated him and of course the psychological profile of those individuals. Also, it must not be left out the features that characterize him. You have to understand that they are human beings who have emotions, feelings and concerns, not programmed machines. The good motivation is a specific of the terrorists and they are prepared to sacrifice their life for the realization of certain goals and rights. The conviction in the justification of their actions also is a characteristic of the terrorists and they always believe that "the goal justifies the means". Much of the leadership of the terrorist organizations is characterized by rationality, intelligence and clear thinking, because that is necessary for planning and implementation of terrorist activities.

If we understand or if we discern and respect their culture, perhaps strange for us, their philosophy and their ideology which is unacceptable to us, we will be able to predict the future steps of the terrorists and the terrorist attacks.

Every terrorist finds its satisfaction by joining a certain group and thereby its confirmed his own value and fully identification with the terrorist organization. The terrorists always act in a group, because as individual persons they are weak, loose and non-profiled, but through its group they experience security and social background.

The ultimate goal of a terrorist is not to receive the requests which he submits as a cause of his struggle, but the goal is to act as a terrorist. The peace and the state of organized society is

not a satisfaction for him, but the chaos, the disorder, the terror fight and his psychological environment.

The terrorists are characterized by rationalism; they are ultimately accountable and good analysts of the situation and the circumstances surrounding the terrorist act. They always use the best ways to realize their goals, with little cost and with a strong effect.

Today in many parts of the world is thought that there exist and act over 100 terrorist organizations. Although some of them act on propaganda plan, the most are very active and are constantly trying to attract the media attention. The result is an increasing number of terrorist acts, but also the terrifying effects of these acts.

VICTIMOLOGICAL ASPECTS OF THE TERRORISM FINANCING

The study of the personality of the victim of the crime is the task of the youngest branch of criminology and criminalistic - victimology. The victimology at the base of its study has the personality of the victim of the crime. It starts with the individual broad studying of the characteristics of the victim and the victim's behavior.¹¹ The contribution of this science is very big especially because of the obtaining information about the contribution of the victim, when it becomes a victim of a particular crime.

The criminal act is a system composed of offender - victim - a misdemeanor. Getting to know the personality of the victim is of great importance for the discovery of the crime, since it usually represents the first hint, that the first link in the chain for finding out and clarifying certain criminal event¹². The victim provides the initial and most important information about the event.

Unlike the other criminal acts where the victim is an obvious and direct, and that is an important source of information and data detection of the perpetrator, in the criminal act terrorism financing, such a victim doesn't exist. Considering that the funds are used for terrorist activities, with intention of overthrowing of the constitutional order and the security of the state,

¹¹ Милутиновиќ, М., Криминологија, Савремена администрација, Београд, 1981, p. 364

¹² Водинелиќ, В., Криминалистика, Савремена администрација, Скопје, 1985, p. 154

an indirect victim in this criminal act is the state itself. Such terrorist acts harm the innocent citizens by facing violence, injuries and death; they are the other indirect victim of this criminal act.

The terrorism is full of violence in which the groups or the individuals want to achieve their political goals. That violence that the terrorists commit has an intention not only to draw attention to themselves and their cause, but to coerce and intimidate, to create an atmosphere of fear and concern that the terrorists can exploit. The reason is the deliberate targeting of innocent citizens who have a central role in the terrorizing.

However, it is obvious that up to date a very little attention is paid to the victims of the terrorist attacks, for themselves or the surviving family members, friends and colleagues who were directly affected by the violence.

There are five main groups that are significant purpose or represent victims of terrorist acts, including:

- Government - as well as its employees and property;
- The police and the army;
- The business activities;
- The public;
- The media.

The victimology of the terrorism is a neglected area of research, and the victims of terrorism are "forgotten human beings". The motives and the patterns of terrorism vary from time to time and from place to place. The victim is selected, abducted and killed by terrorists, but not because of his personal attributes, but rather as a wildcard or representative of the ethnic, linguistic or religious community. The politicians, the heads of states and governments, the diplomats and the economic leaders are more likely to become victims of a terrorist attack because of their social prominence, high exposure and because they cannot remain anonymous even if they want to. The vulnerability of terrorism's victims reaches its peak in the daily, routine activities of people when they are in their cars or on their way from work to home.

For the terrorists the victim is just an object, an instrument for achieving their broader purpose and ideology, not just for the purpose of their criminal act. This means that the terrorists personally have nothing against victims.¹³

PROBLEMS IN DISCOVERING TERRORISM FINANCING

In the process of discovering, clarifying and proving the financing of terrorism, the bodies of prosecution are facing with some problems, gaps, omissions and weaknesses, which hamper the collection of evidence. Conditionally, they can be grouped into three groups.¹⁴

The main problem that the organs for law enforcement, security and intelligence are traditionally facing is the sanctification of time, money and labor to develop evidence and operational intelligence during the financial investigations. The cases concerning money need longer time for working with the prosecutors for revealing the traces and then for the research. These cases cause frustration for most agents and members of the service who have to rely on subpoenas and court orders to force the financial institutions to cooperate. Then, after they will get financial statements they need extra time and effort to conduct subsequent investigations with other companies and individuals who seem to be involved or associated that must legally be forced to submit private or confidential information. By getting various financial documents, many investigators find out that they need help from experts in international finance or accounting, in order to fully understand the significance of the financial information collected in the terms of investigation and prosecution. In many cases, the members or the agents engaged in such cases feel overwhelmed by the volume and importance of the growing set of possible traces for which they have neither enough time nor expertise to follow.

The second problem many agencies for law enforcement, security and intelligence are faced is the inability to conduct a covert operation to gather intelligence information while within the financial community is conducted a public inquiry. It is generally recognized that the owners and

¹³ Schneider, H., *The victim in international perspective: papers and essays*, Berlin, 1982, p. 298

¹⁴ More of this in: Dimovski, Z., Djordjevic, Z., Ilijevski, I., Babanoski, K., *The risks of money laundering and financing of terrorism*, International conference, "Legal state and professionalism of the law enforcement subjects as instrument for fighting crime", Kragujevac, Serbia, 21-23.04.2015

the directors of all financial institutions, both public and secret, depend on the amount of money they provide, move, swap and collect. Their profits and prestige is directly proportional to the amount of money they have on their accounts. Any factor that reduces the net profits of their business affects their position on the financial market in which they operate. Accordingly, the owners and the managers of financial companies, from the smallest to the largest, follow and are dedicated to the people who choose to deposit significant amounts of money in the coffers of their companies. As a result, they generally show greater loyalty to preserve the privacy and the confidential materials regarding their account holders rather than to cooperate with the inspectors who may conduct some official governmental control and authority over their affairs. As a result, the word for any financial investigation quickly spreads among the customers who are affected by the investigation. The terrorist organizations are notable because of their effective procedures for reducing their losses to a minimum. They do so by moving them and hiding their people and resources as quickly as possible.

The third problem is related to the preventing importance and the impact that the financial investigations seem to have on the terrorist organizations. Not only do the agencies of law enforcement and intelligence units find it difficult to find the money in cash or deposits controlled by terrorists, but often they have as much difficulty to seize the money. There are many political, legal and strategic factors being considered by the leadership at the highest level prior to issuing authority to seize and its public disclosure. These considerations vary in each country depending on its economy, culture and ethnicity. But no matter how much money is seized or frozen in any given case, it appears that the supply with money continues. In addition, it never seems that the financial systems, both public and secret, are affected or are considered accountable.

CONCLUSION

Terrorism is a global threat to all humanity that leaves a particularly negative and harmful consequence. Terrorist organizations have their own ideology and their objectives seek to

achieve in every possible way. For this purpose they recruit, train and include appropriate and smarter members in their organization, whose main features that characterized the Islamic fundamentalism and radicalism. Activities dealing with terrorists - members of terrorist organizations, terrorist acts to induce fear and uncertainty among the population, in public, destruction of civil order, and thus extortion of certain behaviour by the government, to exercise their political, religious or ideological goals. In order for it to realize the necessary financial resources to be used for various purposes: training, logistics, shelter, weapons, ammunition and so on. This means that the terrorists are dependent on funding. They in turn, provide funds in various ways and from different sources. Frequently, the money derived from illegal activities - smuggling or other criminal forms of providing funds, but may originate from legitimate activities, such as NGOs, religious organizations, leader's sponsors, charities and so on.

The terrorism financing is a term used to describe the adaptation, the provision and collection of financial transactions that may be directly linked to terrorist activities and terrorist organizations. At the same time it represents a fundamentally simple concept expressed through financial support in any form of terrorist activities or those who incite, plan or are involved in its implementation.

According the principles of international and domestic law a responsible is the person who has engaged in terrorist financing, if that person directly or indirectly, provides or collects funds with the intention or knowledge that they will be used for carrying out acts of terrorism. The terrorist financing refers to the transfer of funds from the source to the end users or shortly said relief and facilitating of the terrorist activity. The terrorist group or organization builds and maintains infrastructure to facilitate the development of sources of funding, channeling funds to those who need to use them.

The funds are the driving force of which depend the terrorist activities. It can best be described as an octopus with tentacles spread over a wide area that includes many social, economic and political organizations. The terrorist activities need access to the funds at all stages from planning, to the execution of the attack. The terrorist organizations and their global networks cannot successfully implement their deadly agenda without financial resources.

However, the problem that rises before financiers - sponsors of terrorist organizations is how to provide funds, but as secured and collected funds from reaching terrorists. The best, safest and most reliable way for them is to reach them through legal channels, but to do this; illegal money should be converted into legal. To discover ways of transferring money, it is his complete and detailed study, which will enable you to establish an efficient system of detection, proof and clarification of such phenomena, the establishment and improvement of system solutions, through the institutions responsible for detection and control of these illegal phenomena.

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