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THE THEME OF TERRORISM IN INTERNATIONAL LAW DOCUMENTS: PROPOSALS FOR THEIR PERFECTION

This paper is a continuation of the article «Some Conventions, Kazakh and American Legislation, UN Structures in Fight with International Terrorism (in English)», which was published in the Journal of the Institute of Legislation of the Republic of Kazakhstan in 2014 in issue 2 (pp. 65-74). In that article legal characteristics of international conventions having relevant to the fight against terrorism was given. In this article we would like to present our proposals to improve the text of the current conventions, suggest new conventions to combat terrorism in the areas not regulated by functioning international legal instruments on this topic. The theme of the fight against terrorism continues to be urgent, as evidenced by the recent terrorist attacks in France, in the so-called Islamic state.

Analysis of texts of 16 conventions and protocols has shown that only the Convention on the

Marking of Plastic Explosives has such a structure to implement the convention. The remaining 15 documents do not contain provisions on such structures: there is a mention of some international organizations of the same profile, which act as office recorders of conventions. Yet such structures could provide immediate and comprehensive implementation of every international convention, fighting terrorism. From the beginning, separate, specialized units may be created in the International Civil Aviation Organization, International Maritime Organization, the International Atomic Energy Agency in accordance with the profile of the Convention that would be responsible for the implementation of its conventions and protocols in practice. In addition, it is desirable to make available the analyzed idea of Article 16 of the Convention on the Physical Protection of Nuclear Material in all

other antiterrorist conventions and protocols.

In order to ensure the real implementation of the conventions and protocols, it is necessary to include in each of them a norm on the responsibility of state parties for non-implementation, or improper implementation of the provisions of the relevant convention or protocol. From the texts of the International Convention for the Suppression of Acts of Nuclear Terrorism, the International Convention for the Suppression of Terrorist Bombings, in our view, it is appropriate to remove articles on extradition of perpetrators of certain crimes of a terrorist nature, and also to provide legal assistance in case of commission of terrorist acts. General phrases about the need for extradition and legal assistance with reference to the appropriate convention should be. But no more.

One might think that this proposal is formal, and not meaningful, but it is not true in fact. As we know, extradition is a fairly complicated and autonomous institution in the field of international criminal law relationships. If we limit ourselves to 2-5-articles on extradition in the above conventions, the extradition will be virtually doomed to fail, because only certain aspects of extradition found expression in an international convention dedicated to the fight against terrorism. If the International Convention for the Suppression of Acts of Nuclear Terrorism will be too wide to talk about extradition, then this convention should be declared as the convention on extradition, and not about nuclear terrorism. The situation is similar with regard to institution of legal protection.

Therefore, the authors of this article suggest extradition and legal support as themes of two separate, independent international conventions and name them like as follows: «On Extradition of Individuals Who Commit the Crimes of a Terrorist Nature» and «On Mutual Legal Assistance in the Struggle Against Terrorism.»

In addition, we would like to propose to develop and adopt the following brand-new international conventions on combating international terrorism: the Convention for the Suppression of the Seizure of Railway Trains for Terrorist Purposes, the Convention for the Suppression of Unlawful Acts Against the Safety of the Railway and Subway Systems, the Convention for the Suppression of the Seizure of Buses for Terrorist Purposes, the Convention on the Struggle Against Terrorist Groups, Control over their Activities and their Crossing of State Borders, and the Convention for the Suppression of State Terrorism.

Conceptually, a future universal international

convention for the extradition of persons who commit crimes under any anti-terrorist conventions, could absorb the most suitable to the Model Treaty on Extradition adopted on 14 December 1990 at the 45th session of the UN General Assembly (Resolution 45/116) as well as the European Convention on Extradition of 13 December 1957. In international law, there are two main types of standards institute extradition: the first we might call the European, the second - the Anglo-American. European type is typical for the legal family of the continental European and Latin American countries, as well as the former colonies, with the exception of British ones. The second type is common for countries like the UK, Canada and the USA.

If European standards for extradition are based on principles that are inherent in the general principles of criminal law: speciality, non-extradition of one's own nationals, the second type is committed to providing the certainty of punishment, even allowing for the extradition of one's own nationals. The two types have both positive and negative aspects. The European type, ensuring the rule of law and the rights of extradited persons, sometimes allows the person who committed the crime to avoid punishment.

The parties to such conventions could extradite persons to each other, who committed crimes, arising from all universal international conventions according to the List as an integral part of the Convention in respect of which the competent authorities of the requesting party deem criminal prosecution appropriate, subject to all provisions and standards which are set out in the Convention, as well as all those persons who are wanted by those authorities. It is assumed that the requesting party seeks the extradition of the perpetrators of crimes which the criminal law of the requesting party makes punishable by imprisonment, and that the minimum term of imprisonment should not be less than, for instance, 4 months.

This Convention must necessarily provide the solution for the situation where the requested State does not object to extradition of the terrorist to the requesting State, but between them there is no bilateral extradition treaty. In this case, the fact of the two States being the members of the Convention, as well as 16 international UN legal instruments against terrorism, supplies the legal basis for extradition of the person who committed the crime of terrorism.

It is necessary to define conceptually, whether the state's own nationals are subject to extradition. Would it be correct to refuse extradition of the offender, if the competent authorities of the requested

Party issued an official decision not to prosecute or have decided to discontinue the criminal proceedings against the same person. It would be appropriate in the framework of the international community to show the grounds on which the perpetrators of terrorist crimes can not be extradited. If at the level of the UN it would be agreed that such bases should exist, then these grounds must be formulated clearly and precisely. This does not exclude that some bases may be unconditional, and some optional, at the discretion of the State. And it would be reasonable to draw a line between unconditional and optional bases.

Torture and other cruel, inhuman or degrading treatment or punishment, in our opinion, could be interpreted as a possible obligation not to extradite if the person to be extradited may be subjected to torture or other cruel, inhuman treatment or punishment, as provided for in relevant international instruments. This can be called the first reason for non-extradition of the person. The second ground of non-extradition is the absence of guarantees of fair trial in the requesting country, if it turns out that the person named in the extradition request, will not be provided with the minimum safeguards stipulated in Article 14 of the International Covenant on Civil and Political Rights in relation to criminal proceedings.

A new international convention would also provide so-called optional grounds for non-extradition of a person for whom an extradition request is under consideration. This means that the issue of extradition depends on the will of the requested State. One of these grounds for non-extradition may be the conduct in the requested State of criminal proceedings against a person in respect of whom it has received a request for extradition. Other optional grounds for non-extradition may be the presence in the state of rules on the statute of limitations, which means that the prosecution or punishment of a criminal offense against the person sought is limited to a specific timetable, which is enshrined in the law of the requested State party.

Certainly, if a State party, for whatever reason does not give the requesting State the person who committed a terrorist crime, it must immediately begin the prosecution of the person on the basis of its criminal law and criminal procedure law and bring the question of his or her responsibility to its logical conclusion. These circumstances should be the subject of a separate article conceptually analyzed in the Convention.

It seems that non-extradition of perpetrators of terrorist crimes on the given grounds must be an exception to the general rule. And the essence of

the rule, in our opinion, should be in the fact that a terrorist must be subject to criminal prosecution, and judicial proceedings in those states, in the territory of which he/she has committed a terrorist crime. In the criminal law of many countries there is the principle, according to which a criminal case, the indictment of the person, who committed a crime, consideration of the case before the court, take place in the location where this crime was committed. Therefore, it is proposed to apply this principle internationally, and this principle should be established in the Convention. This means that the extradition for commission of terrorist acts at the request of the state, which suffered a terrorist act, shall apply to all persons, including the requested state's own citizens. Counter-terrorism practices have shown that this approach in the fight against terrorism is the most effective. For this purpose we refer to the Resolution № 606 1992 of the UN Security Council, which obliged Libya to extradite its own citizens accused of committing an act of international terrorism, which affected such countries as the UK, the USA and France. In this regard, the U.S. position seems to be logical, which in its federal Law on diplomatic protection of 1976 established that «if the victim is an internationally protected person, and the suspect is in the U.S., he/she is subject to jurisdiction of the United States» regardless «of the nationality of the victim or offender» (paragraph 878-d).

If someone argues that the principle of non-extradition of the state's own citizens must be applied in all circumstances, we propose to describe the situation in his country as an example: if nuclear terrorists destroyed the whole city in his country and managed to escape to their native countries, which, guided by the principle of non-extradition of their own citizens refuse to extradite these terrorists and are not in a hurry to start a criminal case on this occasion, then we would like to know how a person, who is adherent to the principle of non-extradition of one's own citizens, would react to this situation. In this situation, the requested state could provide to its citizens lawyers, translators of high qualifications, send consuls, who would protect the interests of these citizens at all stages of criminal proceedings in the country, where the terrorist act was committed. If there are still doubts as to the proceedings in the requesting State, it is possible to raise the question of considering the case with regard to a person who committed a terrorist crime under the trial in the International Criminal Court, which operates under the Rome Statute. But it is needed to ensure that the crime of international terrorism be given to the

jurisdiction of this International Court.

Forms and application of the requesting State, authentication of the required documents, the conditions of detention, the applicable law in the process of extradition, the transfer of the extradited person, transfer of the necessary items, tools of the terrorist crimes related to the transfer of persons, travel arrangements for the extradited person through a third country (transit), financial expenses in connection with the extradition, particulars of regulation of extradition of the accused and convicted persons in the commission of terrorist acts could be the subject of separate articles of the Convention.

Conceptual approaches for a future universal international convention on legal assistance in the fight against terrorism could reveal its contents as follows. Legal assistance to the participating States, according to the authors, shall apply to all 16 international universal instruments against terrorism. A list of the names of all these international conventions could be one of the annexes to the Convention, which could be declared as an integral part of the Convention. A list of the Conventions could be replenished on the adoption of new antiterrorist conventions.

Contracting parties to the Convention could make a commitment to carry out a wide reciprocal mutual assistance in combating terrorist offenses for which the punishment in submitting an application for legal aid was to be the responsibility of the judicial authorities of the requesting party. The conceptual view of mutual legal assistance in criminal aspects, provided pursuant to this Convention, may be requested for: inspection of facilities and necessary sites; receiving applications from individuals, presenting the relevant court documents, detention, search and seizure of the documents, collection of evidence, provision of evidence and expert assessments to provide original documents, certified copies of certain documents and materials of official, financial, commercial and other character. In separate articles of the international legal regulation for the provision of mutual legal assistance in order to eliminate terrorism the following issues can be covered: application forms for assistance, details of the form of request for mutual legal assistance, protection of privacy, legalization of the required documents, establishment of deadlines for requests for assistance, costs associated with the provision of assistance, return of process, giving testimony of witnesses, victims, experts in video format, confiscation of property, admissibility of instruments of crime, and the amount of legal assistance provided

by the States parties to each other.

The Convention for the Suppression of the Seizure of Railway Trains for Terrorist Purposes, the Convention for the Suppression of Unlawful Acts Against the Safety of the Railway and Subway Systems in case of their development and adoption could ensure the safety of railway vehicles, routes, train stations, subways and stations. The terrorist attacks took place in the London underground, the Minsk metro, railway routes in the Russian Federation and in other countries. The necessity of such conventions is evident.

The concept of the Convention for the Suppression of the Seizure of Railway Trains for Terrorist Purposes, and the Convention for the Suppression of Unlawful Acts Against the Safety of the Railway and Subway Systems can be built as follows. Parties to the Convention consider that any person who commits unlawful acts against rail safety endangers the safety of large numbers of passengers, the people involved in this type of transport, causing considerable damage to expensive property in this sphere, and pose serious obstacles for the normal domestic and international rail service. It is therefore necessary to prevent terrorist crimes in the railway system and take action to apprehend and punish the perpetrators. Any person, or group of persons that have entered into the cab of the locomotive, by means of violence or threat of violence to capture the entire train, should be recognized as the perpetrators of the crime. Actions of a person, group of persons in this area should be recognized as crimes if they commit violence or threats of violence in the train, destroying the locomotive, which threatens the safety of the rolling stock, or place an explosive or other device that could threaten the safety of the rail traffic, navigation and damage other equipment, and the safety of other trains.

These conventions are international and shall apply when the crime (seizure) against vehicle is in one state, then the same rolling stock after crossing the border enters the territory of another state. Each State party in its territory shall take the necessary measures to prevent the crime, and detain the perpetrators of the seizure, to interrogate, as to the purpose and motive of capture, determine the effects produced by capture (derailment of a train, the deliberate collision of trains, death or injury) and counts the damage in this regard. If necessary, the state may decide to extradite the person or persons who committed the crime, on joint action to eliminate the consequences of the crime, on mutual legal cooperation in the criminal case. States parties shall establish an inter-state structure in order to

prevent such terrorist crimes, neutralize terrorists who carried out the seizure of trains (rolling stock) and causing the damage and eliminate the consequences of the offense.

Conceptually, the Convention for the Suppression of the Seizure of Buses for Terrorist Purposes in structure and content might look like as follows. States parties to this Convention consider the capture of the bus of international traffic threatens the safety of passengers and property and, therefore, such actions should be recognized as a crime. This Convention is necessary for its legal, international legal basis on which it can prevent these illegal actions, to stop them and take appropriate action to apprehend and punish the perpetrators. Individuals who seized the bus through the use of violence or threat of violence, established control over the drivers and passengers of the bus, would be recognized as those who have committed a crime under the Convention. This Convention may be applicable if the bus, in which the offense was committed, was outside of the State of registration of the bus. Each State party shall take appropriate steps to arrest the perpetrators of the unlawful seizure of the bus, if they are in its territory. States parties should make joint efforts to combat this crime, to apprehend the perpetrators of the crime, for the possible extradition to the requesting State, and to provide mutual assistance to each other to complete the judicial prosecution and appropriate sentencing.

A Convention on the Struggle Against Terrorist Groups, Control over their Activities and their Crossing of State Borders could become another international universal convention, making its contribution to the fight against international terrorism. It is not possible just to contemplate the existing terrorist groups and wait for them to make a domestic and international acts of terrorism, and only then take some action. To the contrary, States parties must take a proactive position in regard to terrorist groups and communities. We must proceed from the criminal nature of such groups and associations. Thus, to the text of the Convention can be placed the possibility of the revealing of various criminal groups, terrorists and for an official decision to ban their activities, to criminalize the creation of terrorist groups and communities, and also directing and participating in them. In legislation of many States parties rules on criminal responsibility for the establishment and operation of such groups are presented. Thus, Article 257 of the Criminal code of Kazakhstan considers the creation of a group to commit crimes, having terrorist aims (terrorist group), as well as its administration as a crime, and

therefore the penalties are determined in the form of imprisonment «for a term from eight to fifteen years, with confiscation of property or without it». Simply «participation in a terrorist group or terrorist acts committed by it» is a crime and «punishable by imprisonment for a term from six to twelve years with confiscation of property or without it.»

Article 257 of the Criminal code of the Republic of Kazakhstan considers as an offense the creation and management of an organized group, participation in it «for the purpose of committing one or more offenses» and punishes with imprisonment for a term to thirteen years with confiscation of property. This article is also relevant to the fight against terrorist groups and organized terrorist crimes. Kazakh legislation directs the thrust of this struggle against the creation or management of a criminal organization, as well as against the establishment of leaders or other members of organized groups or coordinate criminal activities of organized groups acting on their own in order to commit one or more crimes, which finds its expression in Article 257 of the Criminal code of the Republic of Kazakhstan. Coordination of criminal acts is negotiation between organized groups for joint crime, strengthening of stable relations between the leaders or other members of organized groups, development of plans, conditions for crime and the criminal division of the spheres of influence, or the distribution of the proceeds of crime. This is very important. Therefore, it would be desirable to record in the international conventions against terrorism that the participating States will do everything possible to prevent the connection of different terrorist groups and factions (about 500 in the world as noted above) in the community and criminal terrorist association. It would be appropriate to combine this legal experience with the legislative experience of other States parties and then with the help of articles of the Convention the global community will share in the most effective laws to combat international terrorist groups, communities and organizations.

The same provision can be stipulated in the Convention on the penal prohibition of funding, both domestic and foreign terrorist groups and organizations. Such provision would be clearly defined on the basis of the provisions of section 2339B Title 18 USC «Providing material support to a foreign terrorist organization», which provides the sanction of life imprisonment.

Propaganda and counter propaganda of terrorism could form a separate section of the Convention. Propaganda of terrorism or public incitement to commit an act of terrorism, as well as

redissemination of the specified content is a terrorist crime punishable under Article 256 of the Criminal code of the Republic of Kazakhstan by imprisonment for a term not exceeding ten years. Such a rule, in our view, is relevant in the Convention for the Suppression of Terrorist Bombings, because people are instructed in this kind of terrorism, they are told that this is pleasing to God, they are explained this act of terrorism is a noble act, and a network of such propaganda sought to involve the largest possible number people. But the propaganda waged by individuals with their modest resources do not give the desired effect, the operating and establishing companies and organizations are to be involved in a large-scale promotion to terrorism. In order to put a criminal law obstacle here it is proposed to introduce in national legislation the concept of corporate criminal liability. Therefore, it would be appropriate in this and other conventions to formulate a rule, the obligation of all States parties to impose such penalties for companies.

As philosophical ideas of terrorism settled in the minds of some portions of the population it is necessary to conduct purposeful competent counter-propaganda work with the help of the media, especially television, in the form of natural debates, arguments and discussions in order to dispel evil ideas and views. It would be advisable to make such a counter-propaganda an obligation for each State party in all international anti-terrorism conventions. In other words, the fight against domestic and international terrorism must be conducted by methods of coercion and persuasion simultaneously.

Unfortunately, in international law there are no conventions, or norms, which would block the interpersonal communications between international terrorists, or that would facilitate the creation on the World Wide Web, of a site which posts full information about every terrorist, of every terrorist group who would not be allowed to cross the state borders to commit a terrorist act in a particular state. A prerequisite for joining the convention could be the possession by the citizens of each state of biometric passports, which can accurately identify a person crossing the border, which may be the basis for detention or arrest of international terrorists.

It is no secret that some states not only have assisted terrorist groups and organizations in their terrorist and other criminal activities, but also have sometimes carried out such activities. And it is a serious problem. Maybe it makes sense to develop and adopt a separate international universal convention under the name «For the Suppression of State Terrorism.» At the beginning of the convention

we could write the following regulatory lines: «States reject terrorism as a means of resolving disputes, disagreements, and any other issues of foreign and international policy.» In the following article we can give a definition of «state terrorism», it differs from the terrorism carried out by individuals and legal entities. In this article, it can be specified that a state terrorism as a kind of international terrorism refers to activities of the state, its agencies, carried out secretly through third parties, that are directed against individuals, often well-known people of another country for the purpose of intimidation and destruction. In a separate article it is desirable to fix the level of criminal liability of the particular categories of public servants committed in a particular status (as leaders, organizers, instigators, executors) acts of state terrorism. States could take steps to ensure that their territories are not used for terrorist installations, training camps for the organization and preparation of terrorist acts, which could be directed against other countries and their citizens, to establish a clear system of information on the plans of terrorist groups and organized protection of witnesses, informants, to find and arrest the terrorists in its territory who have committed terrorist acts in other countries, according to their request on extradition of the State or criminal liability under domestic law. To the text of the convention can be included the rules on contractual cooperation on counter-terrorism, acceding to all universal international treaties against terrorism, bringing its laws into conformity with the norms of international legal instruments counter-terrorism efforts. It can provide for international legal sanctions for countries engaging in different types of terrorist activities.

The potential of international universal conventions against the phenomenon of terrorism has not been exhausted yet, because not all the nations of the world have become States parties of all 16 international legal instruments of the highest level (only 13 states, including the United States of America and the Republic of Kazakhstan, have acceded to all conventions).¹⁸⁵ states acceded to the conventions on the safety of civil aviation and aircraft, to the conventions to ensure the safety of maritime navigation and the continental shelf - from 12 to 156 States parties, to the conventions of nuclear safety - from 43 to 142, to the convention against financing of terrorism and the conventions on the various forms of terrorism - from 142 to 173 states. The largest number of States parties joined the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation as of 23

September 1971 (188), and the smallest number of states were in the International Convention for the Suppression of Acts of Nuclear Terrorism (71) and Protocol 2005 related to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (12). The reasons for the small number of States in respect of these two international instruments, in our opinion, are: a) lack of interest in a number of states, as they are not directly related to the atomic (nuclear) energy and weapons, and b) later opening date for signature and joining these conventions (2005): in this context, there is a hope that an additional group of states will join the Convention and Protocol in the future. What is surprising is that the interest in the protection of nuclear material from terrorists is revealed by 142, and to protect from nuclear terrorism itself - only 71 States. It seems that States need to ponder over the more active combat against nuclear terrorism since the terrorist may capture nuclear weapons and use them against 1-2 states making radioactive large territories of regions and continents. Not to mention the possibility of nuclear blackmail and terrorism by certain countries that possess nuclear weapons or are close to the creation of such weapons. Therefore, the UN could conduct an active campaign to ensure adherence by the other 129 countries to the Convention on the fight against nuclear terrorism.

Even the largest number of states (188), adhered to the Convention for the Suppression of the Safety of the Civil Aviation, not to mention a smaller number, can not satisfy us, as there are 193 UN member states, and the average number of participation in the 16 conventions against terrorism is only 124 states. Approximately 25-30 percent or more than 60 states in this campaign are not fully involved in the full volume.

At least six states did not join any of 16 international legal instruments against terrorism. One of these countries is the Vatican. There could be a question of whether to focus on this small country. In our opinion, we should, first, because one of the Popes was the object of a terrorist attack, and secondly, because a considerable number (13) of the States of Europe, Central and Latin America, Africa, inhabited predominantly by Catholic, have not yet joined a number of significant antiterrorist conventions. Adherence by the Vatican to the conventions would encourage these states to consider joining the Convention.

As in the field of international terrorism there are many Islamist terrorist groups and individuals, which committed a number of certain acts of terrorism, it

makes sense to look at the position of the Muslim states on joining or not joining the universal anti-terrorism conventions. In the world there are 46 states with population of Muslim majority (50 percent and higher), of which three states are participating in all 13 of the Conventions (not counting the Protocols) to combat terrorism, 25 states have joined from 10 to 12 conventions, 17 countries joined from 4 to 9 conventions, and one state (Somalia) has not signed any convention against terrorism. The UN could draw the attention of the States which have signed a small number of conventions, or did not sign them at all; it could draw attention to the practical implementation of the norms of the conventions, because it is in the power of these states to curb illegal activities of the terrorist groups that may be present in their territory under their jurisdiction. We believe the more such conventions to be signed and ratified by these countries, the less chances and conditions for the commission of terrorist acts by these groups. The international community, including the Organization of Islamic Cooperation, in which, with assistance of the current Chairman of OIC - Republic of Kazakhstan a Standing Committee on Human Rights has been established, would have a corresponding impact on a state, which not only does not sign these conventions, but does not provide adequate control over its citizens admitting unlawful acts, for example, against the safety of maritime navigation.

If organizational initiative is taken, in a few years, in principle, it is possible to ensure that all 193 UN member states become parties to all international universal conventions on the fight against international terrorism.

But on Earth there are 13 states with undefined status (Republic of Abkhazia, Jammu and Kashmir, Republic of China, Republic of Kosovo, Republic of South Ossetia, the State of Palestine, the Sahara Arab Democratic Republic, the Turkish Republic of Northern Cyprus, Republic of Nagorno Karabakh, Pridnestrovie, Somaliland), which are recognized in part, but not members of the UN, and are not party to all international counter-terrorism conventions and protocols. And here the following questions arise: Do these states and territories have the right to sign the 16 conventions and protocols concerning terrorism? Would they become a shelter for terrorist groups and communities or not? Will they be able to withstand terrorist groups?

Without affecting the issues of recognition and membership in the United Nations of such States, the status of the territories, the answers to these questions can be given as follows. No one can guarantee

that the lands and territories of these international actors could not be used by terrorist groups and associations to create bases, training centers, institutions, treatment and rest, accumulation of weapons, explosives, illegal production of weapons and «dirty» nuclear explosive devices and all that is called the presence of good-quality conditions for organizing and carrying out terrorist activities. Therefore, Member States could provide for the UN the authority to ensure that this international organization has entered into negotiations with the 13 partially recognized states on their accession to 16 counterterrorism conventions and protocols. For this we first need to remove some of the legal obstacles. In particular, the phrase «- a member of the United Nations or any of its specialized agencies» from the text of Article 22 of the Tokyo Convention of 1963, which linked the accession to this Convention, to the fact of official membership in the United Nations and (or) in some specialized UN agencies, should be excluded. Member States and the United Nations would assist such States with organizational, financial assistance for their successful counter terrorism. With respect to those territories of which status is either not defined or controversial, it makes sense to connect the case to the UN Trusteeship Council (or other authority) that could negotiate with the States signatories to the Convention, which would take care of these territories only with respect to the Convention to ensure combating terrorism.

In principle, participation of all states and territories of the Earth in all universal conventions and protocols relating to terrorism would be most appropriate. In other words, there should be no place in the world, which is not subject to the action of all 16 international anti-terrorist treaties. Such an approach could be another powerful warranty to prevent terrorist crime and for the successful struggle of the international community against terrorism.

At the UN level, as we have noted, there are 16 international instruments of universal character on the fight against international terrorism. Here we should underline that 8-10 regional conventions and agreements are in force within the continents and regions (Convention of the Organization of American States to Prevent and Punish Acts of Terrorism Taking the Form of crimes against persons and Related Extortion that are of International Significance, of February 2, 1971, the Convention of Francophone African Countries on Mutual Legal Assistance and Extradition in order to Combat Terrorism of May 16, 2008, Agreement on the Cooperation of Commonwealth of Independent

States in Combating Terrorism of June 4, 1999, European Convention on the Suppression of Terrorism of January 27, 1977, for example). Some states on the basis of universal and regional treaties and agreements on combating terrorism have already signed a few hundred bilateral agreements and conventions aimed at combating potential international terrorists. But this is not enough. More than 200 nations of the Earth would cover the entire globe with an extensive network of bilateral treaties and agreements, the number of which may be equal to approximately 40 thousand negotiated instruments on cooperation to combat and eliminate terrorism. Unfortunately, for example, between our two countries (U.S. and Kazakhstan) a bilateral document is not signed yet. A model text of bilateral cooperation agreements can be developed: it would make it possible to take into account all the most important and fundamental issues of cooperation. However, it is undesirable to use only the typical forms of the text: there might be features that two contracting parties shall additionally consider. If all states would show a contractual activity in this matter, the activity in the successive application of the treaties and agreements, all domestic and international terrorists would not dare think to carry out their terrorist plans.

Taking into account that nuclear terrorism is the most dangerous to the public view of terrorism, we will focus on blocking it in detail. With the help of the United Nations, its specialized agencies, and the specialized international organizations it is necessary to create a broad and well-functioning international system to combat illicit proliferation of nuclear and radioactive materials. An international system would consist of the following: 1) the international system of control over the prevention of radioactive contamination of the environment, and 2) the international system of non-proliferation of nuclear materials, and 3) international legal mechanism to block the smuggling of nuclear and radioactive materials. In order to prevent a nuclear terrorist acts, it is necessary to hold regular preventive action, to take preventive measures: to provide adequate, fully thought-out physical protection of nuclear materials and nuclear facilities, to carefully think through all possible options for the removal of nuclear material from the warehouse and facility and to prevent the theft of nuclear materials and promptly inform management of all cases of loss of any volume of these materials, in the event of the removal to inform of the facts and in case of the theft of nuclear material immediately to inform the law enforcement agencies, in turn, law enforcement agencies are

required to conduct a thorough investigation, to accuse the guilty persons, to bring the case to court and procure an appropriate sentence; when there are attempts to export nuclear material smuggling, the customs authorities must stop this and bring the case to trial and conviction.

It is no secret that the main source of international terrorism is the organizations of extremist Islamist direction. It would be wise to study and get to the heart of the Islamist trends, to build bridges of understanding between the Western and Islamic countries on human rights, on the problems of terrorism, to try to conclude bilateral agreements and detailed agreements on the fight against terrorism. We think this approach could be the most productive. Standards can be formulated in regional and bilateral treaties and conventions, in particular, on the need for training security forces in all units on anticipation of terrorist threats and neutralizing the perpetrators of acts of terrorism in each country about working out appropriate measures to protect civilians from terrorist acts, to provide adequate protection of strategic facilities at schools, oil pipelines, gas pipelines, water supply and heat supply and other facilities, on more rigorous monitoring of sites that

promote terrorism and extremism and closing them.

It would be useful to create within the international arena under the auspices of the UN, as well as continental and regional organizations, specialized courts for combating terrorism.

Objectives on countering terrorism are implemented at a high level in all these conventions. However, it would be better to implement a full-scale countering to terrorism. This can be achieved by improving the conventional norms. Of course, we do not claim absolute truth, a critical analysis of the texts of international universal conventions on combating various manifestations of international terrorism: we invite all interested parties, developers of texts of these conventions, legal scholars, scientists in nuclear physics, practitioners of the nuclear industry to discuss and will be happy if we were convinced that we erroneously proposed adoption of certain phrases, norms, individual texts, or standing conventions on combating various manifestations of international terrorism. In other words, we invite everyone to a broad discussion on the issues of international legal tools to combat terrorism.

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Бұл мақалада халықаралық терроризммен күрес халықаралық конвенциясымен жүйеленген мәтінді жетілдіруге арналған ұсыныстар көрсетілген. Авторлардан теміржол және автобустық көліктердегі терроризммен күрес негізінде жаңа халықаралық конвенциялар ұсынылған. Терроризммен күрестегі халықаралық конвенциялардың БҰҰ және еуропалық ұйымдардың рөлі аясында тәжірибелік қолданылуының жетілдіруі көрсетілген. Авторлар Гарвард университетінің профессор – құқықтанушысы Дж. Ньюманға осы ғылыми мақаладағы ағылшын мәтінін өңдегені үшін алғысын білдіреді.

Түйін сөздер: конвенция, терроризм, терроршылдық акциялар, террор, заң, кодекс, экстрадиция, адам құқықтары, қылмыс.

В данной статье сформулированы предложения по совершенствованию функционирующих текстов международных конвенций по борьбе с международным терроризмом. Авторами предложены новые международные конвенции по борьбе с терроризмом на железнодорожном и автобусном транспорте. Показана роль ООН и европейских организаций в деле совершенствования практического применения международных конвенций по борьбе с терроризмом. Авторы выражают благодарность профессору-правоведу Гарвардского университета Дж. Ньюману за научное редактирование англоязычного текста данной статьи.

Ключевые слова: конвенции, терроризм, террористические акции, террор, закон, кодекс, экстрадиция, права человека, преступление.

This paper makes proposals to improve the functioning of texts of international conventions on the fight against international terrorism. The authors proposed new international conventions against terrorism in rail and bus transport. The role of the UN and European organizations in improving the practical application of international conventions on combating terrorism is analyzed. The authors thank Professor, Harvard legal scholar J. Newman for scientific editing of the English text of this article.

Keywords: conventions, terrorism, terrorist actions, terror, laws, code, extradition, human rights, crime.

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Тема о терроризме в международно-правовых документах: предложения по их усовершенствованию

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The theme of terrorism in international law documents: proposals for their perfection