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# LEGAL AND POLICING MODEL TO COUNTER ORGANISED CRIME AND TERRORISM IN SLOVAKIA

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#### **ABSTRACT**

Organized crime and terrorist networks belong to the most important threats in Europe, including Slovakia. The number of assets confiscated from organized crime is still increasing, which indicates its rise, especially in the areas of carousel tax fraud, unlawful financial operations, VAT collection, and the distribution of drugs. These activities are often accompanied with corruption. Europe, including Slovakia, is now facing the growing migration wave that increases the risk of foreign fighters entering its territory, who could be recruited for terrorists attacks. The efficiency of the fight against organized crime and terrorism depends on the coordination of activities, the cooperation of the involved authorities, as well as their independence,

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and a permanent effort to minimize unprofessional and illegal interventions into the work of police, courts and prosecution. This is an area in which permanent improvement is necessary.

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#### Introduction

Organized crime and terrorism are ubiquitous threats that are not restricted by national borders. Fighting in conflict zones also has an impact on the involved states, as military interventions in crisis areas may cause increased terrorist attacks in the territories of foreign powers engaging in these conflicts. Both terrorism and organized crime have been on the rise in the recent years. Open borders within Europe and the resulting free movement of persons within the Schengen area pose a potential threat in the form of an uncontrolled flow of illegal migrants, including those with a criminal background (as open borders mean a free and difficult-to-control flow of people, once one passes the border of the Schengen area, one does not have a problem to travel to another country within this area). The success of the fight against terrorism and organized crime is conditioned by the timely identification of suspicious activities, by the effective and flexible cooperation between security forces in the country, and by the quality of international cooperation consisting largely of the rapid exchange of intelligence. The Internet, which is today the information medium that is most widely used for the purposes of organised crime and terrorism, 1 is

<sup>&</sup>lt;sup>1</sup> The difference between terrorist activities and organized crime is the following: **terrorist activities**, according to the EU definition, are characterized as deliberate acts aimed at destabilizing or destroying the political, constitutional, economic or social structures of a country or international organization. There is either individual terrorism or organized terrorist groups, but their activities are not profit-oriented. There is no generally accepted definition of **organized crime**, various definitions are included in national legal systems. Slovak Criminal Code14 in § 129 para. 4 shows the definition of a "Crim-

an important means of promoting, managing and coordinating activities related to these crimes. Increased attention should therefore be paid to monitoring websites and popular social networks, as well as to activities focused on prevention.

The Slovak Republic (hereinafter also referred to as "the SR") actively engages in such a worldwide effort through close diplomatic, economic, military and humanitarian cooperation with foreign countries. In the fight against terrorism in the EU, the EU uses documents such as the European Counter-Terrorism Strategy, the EU Counter-Terrorism Action Plan, the Strategy for Combating Radicalization and Recruitment, the European Action Plan to Combat Radicalization and Recruitment and others. Membership in international organizations focused on combat against terrorism and the support of global anti-terrorist efforts, however, could increase the threat of terrorist attacks against the citizens and the interests of the Slovak Republic.

Presently, one of the major challenges for Europe is the creation of a mechanism to prevent the travel of radicalized militants to conflict areas and their subsequent return.<sup>2</sup> These fighters own European travel documents, which allow them to avoid increased security checks at the borders and at the airports. Another problem are the financial collections made in European countries, which are then used by Islamic organizations fighting and operating in the Middle East and Africa. Europe plays a vital role in terrorists' logistic operations, mainly those active in Syria; it is becoming a place of the recruitment of new radically oriented members, and the provider of the necessary funding for fighters during their stay outside the conflict zone. Easy access to Islamic propaganda is also a serious problem for the EU. There are many groups on the Internet that directly or indirectly incite to jihad in the home country or abroad.<sup>3</sup>

inal group": for the purposes of this Act, a criminal group is a structured group of at least three persons which exists over a period of time and acts in a coordinated manner to commit one or more serious crimes, e.g. legalization of criminal proceeds according to § 233 or any of corruption offenses, for the purposes of gaining, in a direct or indirect way, financial or other benefit.

<sup>&</sup>lt;sup>2</sup> Concerning radicalism, see more in: S. Križovský, A. Kavečanská, *Radikalizmus v Európe*, [in:] *Bezpečná Evropa 2013*, *Zborník príspevkov z 6. ročníka medzinárodnej vedeckej konferencie*, Karlove Vary, 25. November 2013, Karlove Vary 2013, pp. 60–69.

<sup>&</sup>lt;sup>3</sup> See e.g., *Islamic jihad training*, December 2008, CNN, https://www.youtube.com/watch?v=hTzgyIvmEV0

An example may be the Sharia4 network, which has its origins in the formerly banned Salafi-Wahhabi British Al-Muhajiroun group. A new and growing trend is the travel of women to conflict zones and their subsequent involvement in jihad in these areas.

#### ORGANIZED CRIME AND TERRORISM

A uniform definition of organized crime has yet to be formulated (see Footnote 1). However, this activity has distinctive features which may include:

- A suspicion of committing serious crime,
- Collaboration of more than two people,
- Activity focused on profit,
- Division of tasks in an existing organization,
- Long-term activity,
- Committing crime at the international level.

Modern organized crime is adapting to the conditions of market economy and worldwide globalization: along with economy undergoing globalization, also organized crime becomes globalized. A frequent sign of organized crime is corruption. The growth of organised crime activities is supported by disparities between rich and poor countries, the liberalization of money circulation, new payment technologies, as well as legal factors such as the unjustified use of bank secrecy or the existence of tax havens, which is a legally recognized and accepted tax evasion.

There are very concrete and clear links between the activities of organized crime and terrorism. Even though the SR is not the primary target of terrorist attacks and there is no direct activity of terrorist groups, it is likely that the Slovak economic environment is being used to collect funds that will then be used to fund terrorist networks and acquire new members; also, it may be used for logistic support. Such economic activities can include "money laundering", corruption, drug crime or transport. The international commitments of the Slovak Republic, the active participation in missions, the existing legal and illegal migration, as well as the problems within the Slovak economic environment are the breeding ground for the risks related to organized crime and terrorist activities.

<sup>&</sup>lt;sup>4</sup> I.e. the fulfillment of international obligations arising from NATO membership, such as OEF (Operation Enduring Freedom) or Resolute Support.

<sup>&</sup>lt;sup>5</sup> Cf. e.g. TASR, *Sýrčan mal zo Slovenska financovať Islamský štát*, "Teraz.sk", 29.10.2016, https://www.teraz.sk/slovensko/syrcan-slovensko-islamsky-stat/225444-clanok.html

#### CURRENT SECURITY SITUATION IN THE SLOVAK REPUBLIC

The security environment in the Slovak Republic is currently relatively peaceful without the immediate risks related to terrorism. Nevertheless, in 2014, citizens of the SR became victims of terrorist attacks in Afghanistan and Pakistan for the first time.<sup>6</sup> A pan-European and therefore also a Slovak problem is illegal migration through which members and supporters of terrorist groups can get into the country.<sup>7</sup>

Despite the probable presence of these persons on the territory of the SR, no religiously motivated terrorist attack has been carried out by the migrants, nor was there any information indicating the preparation of this type of terrorist attack on the territory of the SR. The Muslim community living in the Slovak Republic is moderate and does not support the activities of Islamic groups in conflict zones.

Even though the situation is relatively quiet, Slovak legislation reacts to the development of terrorism and synchronizes its legal rules with the EU legal rules, e.g. Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA.

The currently valid legislation related to the fight against terrorism includes the following:

- Act No. 460/1992 Coll. the Constitution of the Slovak Republic as Amended
- Act No. 300/2005 Coll. the Criminal Code of the Slovak Republic as Amended
- Act No. 301/2005 Coll. the Code of Criminal Procedure of the Slovak Republic as Amended
- Act No. 171/1993 on Police Force as Amended
- Act No. 256/1998 on Witness Protection as Amended
- Act No. 297/2008 on the Prevention of Legalization of Proceeds of Criminal Activity and Terrorist Financing and on Amendments and Supplements to Certain Acts as Amended
- Banking Act No. 483/2001 Amending Certain Other Acts

<sup>&</sup>lt;sup>6</sup> The victims were Patrik Fraštia and Edmund Makovník (Afghanistan, December 2013).

<sup>&</sup>lt;sup>7</sup> As illegal migration is uncontrolled, it increases the possibility of radically oriented persons entering the country. People can also radicalize after entering the country – loss of family members in Iraq or Syria can push people to become 'lonely wolves'.

- Act No 404/2011 on Residence of Aliens and Amendment and Supplementation of Certain Acts
- Act No. 610/2003 on Electronic Communications as Amended
- Act No. 387/2002 on State Administration in States of Crises Outside Wartime or a State of War, as Amended
- Act No. 46/1993 on Slovak Intelligence Service as Amended
- Act No. 198/1994 on Military Intelligence as Amended
- Act No. 190/2003 Coll. on Firearms and Ammunition and on Amendments to Certain Acts
- Act No. 45/2011Coll. on Critical Infrastructure
- Act No. 144/2013 on Trading with Designated Products the Possession of which is Limited for Safety Reasons and Amending the Act of the National Council of the Slovak Republic No. 145/1995 Coll. on Administrative Fees, as Amended
- Act No. 39/2011 Coll. on Dual Use Items
- Act No. 58/2014 Coll. on Blasting Goods and Ammunition and on Amendments and Changes to Certain Acts
- Act No. 392/2011 Coll. on Trading with Defence Industry Products and on Amendments and Supplements of Certain Acts
- Act No. 480/2002 Coll. on Asylum and on Change and Amendments of Some Acts
- Act No 126/2011 Coll. on Carrying out International Sanctions

Despite the international effort and the measures taken, it can be said that both terrorist threats and organized crime tend to grow steadily.<sup>8</sup> This is due to both the aggressive foreign policy of the world powers,<sup>9</sup> which leads to an increase in the number of war conflicts, but also to globalization, which allows for the smooth movement of criminals or criminal activities and their associated capital.

<sup>&</sup>lt;sup>8</sup> Cf. e.g. Project TAKEDOWN, Horizon 2020, 2018, https://www.takedownproject.eu/overview/

<sup>9</sup> This may be exemplified by 30 years of war in Afganistan, Iraq, the Arab Spring (see more in: M. Amin, R. Assaad, N. al-Baharna, After the Spring: Economic Transitions in the Arab World, Oxford 2012) and the destabilisation of North Africa (see more in: R. Ivančík, P. Nečas, International security from the view of postmodern conflicts on the African Continent: scientific monograph, Rzeszów 2012), the war in Libya and Syria, in all of which numerous world powers were involved, such as USA, Russia, Germany, Italy, Turkey, United Arab Emirates, Qatar, or Egypt.

## The objectives of the fight against terrorism and organized crime in the Slovak Republic

As terrorism and organized crime remain one of the most serious security threats, it is necessary to focus intelligence services so as to obtain information on the existing risks to the Slovak Republic, its citizens, interests and facilities, including information about the radicalization, support and recruitment for terrorist activities.

Another objective is to develop and implement the legislative and institutional framework for the fight against terrorism in order to expand the capabilities of the Slovak intelligence services, special police units and authorities active in criminal procedure for the prevention, detection, investigation and prosecution of criminal offences connected with terrorism, and create an environment for effective cooperation with the existing institutions. Another strategic objective is to develop cooperation with international security forces, state authorities and institutions, and to support international efforts to monitor the security situation worldwide and in the Slovak Republic.

An effective fight against terrorism is conditioned upon the effective exchange of information, experience and knowledge between key actors participating in the fight against terrorism as well as among other state authorities that even only marginally deal with prevention, detection, verification, investigation and prosecution of terrorist offences. It is also important to manage the information flow, so that all the key actors combating terrorism receive information in the area in which they have exclusive power, jurisdiction and authority set by the law. Part of the fight to minimize the existing risks is also the monitoring of educational practices and facilities with regard to the possible occurrence of sources of extremist ideology with elements of terrorism, religious radicalization and intolerance. It is also necessary to continuously monitor and evaluate information from the churches and religious societies that show signs of authoritarian cults with dominant leadership principle and the closure of the community. Funding is a prerequisite for the functioning of terrorist networks and organized crime, so it is also necessary to continuously improve the activities aimed at identifying the sources of such funding, as well as effective procedures for blocking and seizing assets thus obtained.

The issue of radicalization and extremism is addressed in several documents in the Slovak Republic.

Strategy on Countering Extremism is the basic document defining strategic priorities of the Slovak Republic in the prevention and elimination

- of radicalism, extremism and associated antisocial behaviors undermining basic human rights and freedoms, as well as the basics of the rule of law.<sup>10</sup>
- The National Action Plan for the Fight against Terrorism for 2015–2018 took on some of the tasks from the respective plans from earlier periods and through new tasks, it extends the possibilities and instruments for the fight against terrorism in the Slovak Republic. The objective is to continue in creating favorable conditions for the consistent fulfillment and implementation of international commitments such as bilateral and multilateral treaties, the UN Security Council resolutions, regulations and framework decisions of the EU institutions, decrees of international institutions and specific states on sanctions against persons and groups suspected of terrorism and the promotion of terrorism.

### NAKA and its role in the fight against organized crime and terrorism

The NAKA (Slovak: *Národná Kriminálna Agentúra*, 'National Criminal Agency') is an organizational unit of the Police Corps Presidium, formed on 1st December 2012 as the successor unit of several independent authorities for fighting the corruption and organized crime. The reason for its creation was to increase the efficiency in the area of the fight against crime, which in its nature represents the most serious forms of criminal offenses; another reason was to prevent duplication of operative activity and criminal proceedings.

The structure of the National Criminal Agency consists of the following executive units:

National Financial Police Unit: it has been designed to detect and investigate the most serious forms of criminal offenses against property and economic crimes. Most frequently, these are the following: cases of carousel tax fraud; fictitious delivery of goods; tax frauds on the import and export of goods from third world countries; cases of fraud and evasion related to invoicing and bookkeeping; cases of illegal financial operations, unlawful operations in the field of capital and financial markets; as well as cases of counterfeiting, alteration and unauthorized production of money and securities. Last but not least, it is necessary to

<sup>&</sup>lt;sup>10</sup> Koncepcia boja proti extrémizmu na roky 2015–2019 [Strategy on Countering Extremism for the years 2015–2019], 2015, https://www.minv.sk/swift\_data/source/policia/naka\_opr/nptj/koncepcia%20extremizmus%202015-2019.pdf

emphasize the activity of the national unit of financial police in the area of the verification of the origin of assets under Act no. 101/2010 Coll.<sup>11</sup> The National Financial Police Unit is active in the field of international cooperation with the Member States of the European Union, the European Multidisciplinary Platform Against Criminal Threats (EMPACT),<sup>12</sup> in relation to the Missing Trader Intra-Community platform (MTIC), in which the unit participates in the exchange of information through the EUROPOL National Center.

- National Anti-Terrorism Unit: its activities are primarily aimed at detecting and investigating terrorist offenses under Section 140b of the Criminal Code, crimes of extremism under Section 140a of the Criminal Code, and terrorist offenses under the first part of the seventh chapter of a specific section of the Criminal Code. The National Anti-Terrorism Unit is the guarantor of the fight against terrorism from the socio-economic point of view and, in cooperation with the relevant central state administration bodies, it processes, performs and evaluates the fulfillment of the tasks deriving from the National Action Plan for Combating Terrorism. It represents the Slovak Republic in the Working Party of the Council of the European Union on Terrorism in connection with the creation of the European Union's security policy in the fight against terrorism and radicalization. The National Anti-Terrorism Unit is at the same time a guarantor of the fight against extremism.
- National Counter-Crime Unit: The Unit's activities are mainly aimed at detecting and investigating offenses of murder; offenses of founding, assembling and supporting criminal groups; crimes of founding and supporting terrorist groups; serious crimes committed by criminal or terrorist groups; the illicit manufacture, possession and trafficking of narcotics, psychotropic substances, poisons or precursors; the illicit trafficking of weapons, ammunition and explosives.
- National Anti-Corruption Unit: it fulfills important roles in the detection and investigation of corruption offenses, as defined in the eighth chapter of a specific section of the Criminal Code, that pose a threat to the stability of the rule of law and to the proper functioning of democratic institutions. The National Anti-Corruption Unit also develops effective

<sup>&</sup>lt;sup>11</sup> Zákon zo 4. marca 2010 o preukazovaní pôvodu majetku [Act No. 101/2010 Coll of 4 March 2010 on the Proof of Origin of Property], 2010.

<sup>&</sup>lt;sup>12</sup> https://www.europol.europa.eu/empact

detection and investigation activities regarding the offenses against the financial interests of the European Communities under Sections 261 to 263 of the Criminal Code and regarding some selected offenses against property under the fourth chapter of a special section of the Criminal Code (for example, violation of the obligation of administering a foreign property according to Section 237 of the Criminal Code and offenses committed in connection with insolvency proceedings under Section 241 to 243 of the Criminal Code).

National Anti-Drug Squad: it is an organizational component of the National Criminal Agency dealing with law enforcement in the fight against narcotics, psychotropic substances and precursors, as well as in the fight with drug offenders. This unit also detects and investigates serious cases of illicit and counterfeit medicines, as well as substances with anabolic or other hormonal effects. It cooperates with foreign partner services in detecting and investigating international drug crime. NAKA also includes the Financial Intelligence Unit, whose legislative

framework is mainly constituted by Act No. 297/2008 Coll. on Protection against the Legalization of Income from Crime and on Protection against the Financing of Terrorism. This unit is primarily focused on receiving, recording, analyzing, evaluating and processing reports on unusual business operations. For the effective combating against money laundering and terrorist financing, the exchange of information at the international level is very important. Therefore, communication takes place via the secure encrypted Egmont Secure Web (ESW), created within the Egmont Group and the FIU.NET network.

#### Conclusion

The authorities of the Slovak Republic strive to respond appropriately to the constantly changing environment; they also strive to continually assess the risks that arise as a result of the world's development. In general, one can say that due attention is paid to the problem of terrorism, and that organized crime is adequately discussed in the Slovak Republic. The authorities and organizations respond adequately to the development of the situation in the country and abroad, and to the arising needs connected with that. The SR continually develops tasks related to the fight against terrorism and implements international approaches to the issue with an emphasis on the EU security environment as well as on specific conditions in the Slovak Republic. In terms of legislation, greater unification seems neces-

sary, as the regulations concerning the issue are currently scattered among a considerable number of Acts.<sup>13</sup> In this regard, it would be convenient to think of adopting one Framework Act for the fight against terrorism and organized crime. Slovak authorities definitely have to describe rules, set rights and obligations, and to control mechanisms, including sanctions for noncompliance with these rules.

One should take into consideration the fact that the effectiveness of the fight against organized crime and terrorism also depends on the cooperation and coordination of the activities of individual actors, their independence and the necessity to minimize the possibility of unprofessional and illegal interventions to the system.

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<sup>&</sup>lt;sup>13</sup> E.g. Act No. 460/1992 Coll. – the Constitution of the Slovak Republic as Amended; Act No. 300/2005 Coll. – the Criminal Code of the Slovak Republic as Amended; Act No. 297/2008 on the Prevention of Legalization of Proceeds of Criminal Activity and Terrorist Financing and on Amendments and Supplements to Certain Acts as Amended; or Act No 404/2011 on Residence of Aliens and Amendment and Supplementation of Certain Acts.

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