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TERRORIST THREATS - PERCEPTION OF VULNERABILITY AND EXPANSION OF LEGISLATIVE SYSTEM OF PROTECTION

Milan Milošević¹, Branislav Milosavljević², Marjan Marjanović³

¹Faculty of Business Studies and Law, Belgrade, Serbia

²Institute for Strategic Studies of the Ministry of Defense, Belgrade, Serbia

³Institute for Risk Assessment and Critical Infrastructure, Podgorica, Montenegro

Abstract: *The escalation of terrorist attacks around the world as well organized or self-participation the individual citizen of the Republic of Serbia in paramilitary formations abroad and their return and present migrant crisis in the immediate environment, these are some of the most important features of the previous period. In such circumstances, and with the start of negotiations on accession to the European Union, the Republic of Serbia, among others innovated national criminal legislation. Analysis news points to the introduction of new or changes to the existing criminal offenses, but the biggest changes were made in the sphere of terrorist crime. In addition to considering new solutions to the criminal law aspects current news are viewed from the aspect of subjective perception of threat by terrorism by undergraduate students of the Faculty of Business Studies and Law and the Faculty of Law, University of Novi Sad. To this end, developed a questionnaire of twenty questions to which the students responded in order to determine the degree of immediate threat to the national and international terrorism as well as the expected effects of the amendment of the national criminal legislation.*

Keywords: *subjective perceptions, endangering the security, terrorism, criminal law*

1. INTRODUCTORY REMARKS

Criminology sees the contemporary terrorism as a typical for of expressing serious, primarily international (transnational, transboundary) criminality. As opposed to this, criminal law isn't familiar with terrorism as unique category, but it always includes several different criminal activities and what they have in common is that they are performed through violence or threat of violence (means), they occur for political motives (motive) and in their execution there comes or there can come to a general danger for the people and property (consequence). From this, we can conclude that terrorism as a criminal law category is divided into basic felony and special forms of attack to social values and goods

from this group.

Basic criminal act of terrorism in the sense mentioned most frequently includes so-called non-selective terrorism (indiscriminate terror), where the actions and consequences consist of provoking danger and intimidation of the widest proportions, and the objects of attack are the goods of extreme social value or an indefinite number of persons found at the location of the crime execution. However, this incrimination does not exhaust diverse terrorist activity in any case. In other words, identification of the corpus of terrorist crime acts in the current Criminal Law of the Republic of Serbia is a complex issue, since we can talk about this phenomenon not only in narrower and wider, but also in the widest sense.

Starting from it, it is indisputable that the citizens can have the problem in recognizing and, even more, the problem to make a distinction between crime acts that definitely refer to terrorist criminality. These perceptions could also be influenced by the fact that the last terrorist act (assassination of the Turkish ambassador Galip Balkar) was executed in Belgrade in 1983 (Pasanski 1989).

On the other hand, it is obvious that one part of the Serbian citizens and people from neighbouring countries take part in terrorist organizations and paramilitary formations in Syria and Iraqi and the geographic position of the Republic of Serbia as almost inevitable transit country is well-known in illegal migrations from the Near and Middle East (partially Africa) towards Western Europe. For example, the city of Belgrade had a significant role during previous and current year in passing of the migrants from Syria, Iraqi and Afghanistan through Serbia.

Confusion regarding the content of incrimination in the corpus of terrorist criminality would be even more dangerous if the crisis caused by permanent activity of Albanian terrorists in Kosovo and Metohija, on the south of central Serbia, in northern Macedonia and wider, "overflowed" to the area of the narrower Serbia and Vojvodina. (Milošević et al. 2001).

The same can be applied to the crisis caused by possible "overflow" of anti-constitution activities of Islamic fundamentalists in Bosnia and Herzegovina and Raska to the territory of central Serbia. In the end, the confidence that citizens have in government bodies and their activity in the aspect of defense against terrorism and preservation of personal and material security is very important.

The most effective and efficient manner to obtain the data based on which it would be possible to make competent conclusions regarding these issues is to evaluate the collected value judgements and evaluations of endangerment of the total security in two biggest towns in Serbia regarding the security vulnerability by the acts of modern terrorism, particularly the threats from the part of Albanian extremists, domestic Islamic extremists (Wahhabis) and international Islamic terrorists such as: ISIL, Al Nusra, Al Kaida and so on (Milošević 2005), as well as judgements and evaluations about the impact that current refugee crisis could have on security endangering through terrorism in Belgrade.

2. NORMATIVE ANALYSIS OF THE TERRORIST CRIME ACT

It is indisputable that in current Criminal Law of the Republic of Serbia regarding the corpus of terrorist crime acts it can be spoken in a narrow, wider and the widest sense. Namely, terrorist criminality in the narrowest sense includes only criminal acts against humanity and other goods protected by international law, more precisely: terrorism (Article

391 CL of RS), public incitement to commit terrorist offenses (Article 391a CL of RS), recruitment and training for the execution of terrorist acts (Article 391b CL of RS), the use of lethal devices (Article 391v CL of RS), the crime of destruction and damaging nuclear facility (Article 391g CL of RS) and terrorist financing (Article 393 CL of RS).

Terrorist criminality in the widest sense, in addition to the all above-mentioned, also includes some other criminal acts against constitutional order and security of the country that are terrorist by their nature (for example: criminal act of diversion from the Article 313. CL of RS). Terrorist criminality, perceived in the widest sense, in addition to all previously mentioned, also includes: unauthorized procurement and security vulnerability with nuclear materials from the Article 287. CL of RS, take part in the war or armed conflict in foreign country from the Article 386a CL of RS, organization of participation in war or armed conflict in foreign country from the Article 386b CL of RS, endangering the persons under international protection from the Article 392 CL of RS, and terrorist association from the Article 393a CL of RS.

Terrorism is in the law described as a separate criminal offense in our current legal system (Article 391 CL of RS) and it primarily includes different forms of international terrorism as a delict that is performed in order to harm the Republic of Serbia or foreign country or international organization. According to that, the act of violence or threat by violence that is undertaken by the perpetrator of this act is a result of hostile initiatives.

In this case the consequence of the act is manifested, first of all, in intensive feeling of fear and endangering of essential rights of the population, where the feeling of fear and jeopardy does not include entire population, but it includes far great number of citizens than the number of direct victims. In addition, we conclude that, by its legal nature, criminal offense from the Article 391 CL of RS is included in the so-called intentional torts.

Also, it is concluded that current incrimination of terrorism entirely consumes taking hostages out of hostile initiatives towards foreign country or international organization. We believe that the solution mentioned still is not opposed to the obligation from International Convention against the Taking of Hostages from 1984.

Terrorism as a separate criminal offense has several forms, where the basic, more severe and serious form is expressed through terrorist attack, while the privileged form is expressed by terrorist threat. The proscribed penalty for a terrorist attack as a main form of expressing terrorism (paragraph 1.) is imprisonment for 5 to 15 years, while the sanction for terrorist threat (paragraph 2.) imprisonment for six months to five years.

The most serious form of terrorism has the character of a complex criminal act that consists of basic form of criminal offense of terrorism and ordinary or aggravated murder, so that there cannot come to a coincidence between these offenses. The most serious form of expressing terrorism in current legislation has the sanction of at least 12 years in prison or imprisonment for 30 to 40 years.

Prescription of criminal offense of *the use of lethal devices* (Article 391v CL of RS) and *destruction and damage of nuclear facility* (Article 391g CL of RS) represents the result of duties resulting from numerous international conventions that deal with this field such as International convention on prevention of bombing terrorist attacks, International convention on nuclear terrorism prevention and so on (Kegley 2003). It is obvious that the legislator has in mind the so-called random terrorism, i.e. terrorism in its purest form when prescribing the criminal offense of destruction and damage of a nuclear facility (Milošević 2003).

In relation to this, we believe that, regardless of the obligations taken from international law, in practice it is very difficult to imagine that someone would, in the sense from Article 391g CL „damage a nuclear facility in a way in which radioactive material is released or there is a possibility for it to be released“ with the intention to deprive someone of life or to inflict a serious bodily injury, particularly for the purpose to “endanger living environment”.

Implementation of one of the international obligations from the field of the struggle against terrorism, and in the aspect of harmonizing our law with appropriate legal acts of the European Union (Council Framework Decision 2008/919/JHA), also represents the incrimination of terrorist propaganda as independent criminal act. Consistent to newly-adopted concept of terrorist crime, such an act is proscribed as *public incitement to execution of crime acts* (Article 391a CL of RS), since the activity of performing this criminal offense consists precisely of the spreading of terrorist propaganda.

In relation to this, in theory we reject the possibility of performing criminal offense from the Article 391g CL through public glorification (“apologia”) of some already performed terrorist violence, even if that could possibly encourage potential executors of terrorist attacks in the future (Milošević 2016). The solutions from comparative law also direct to such an interpretation, such as the fact that in Slovenian Criminal Law the person who, directly or indirectly, publicly glorifies or justifies terrorism is punished, but for the tort from the Article 110 of the Criminal Law of Slovenia bearing the title “Encouragement and public glorification of terrorist attacks”.

Prescribing a separate criminal offense of *terrorist association* (Article 393a CL of RS), is the result of international obligation resulting from previously mentioned EU Council Framework. Legal nature of criminal offense of terrorist association points out that such association must be of a more permanent instead one-time character (it is established for the longer period of time) and calculated to performing criminal offenses of terrorism (Article 391 CL of RS), public incitement to execution of terrorist offenses (Article 391a CL of RS), recruitment and training for the execution of terrorist acts (Article 391b CL of RS), endangerment of persons under international protection (Article 392 CL of RS), terrorism financing (Article 393 CL of RS), and the like.

Since the action of executing the criminal act is terrorist association (Article 393a) that finishes in association itself, it is concluded that the offense will exist regardless of the fact where it has come to the execution of one or more planned criminal offenses. If it has come to that, analog to the solution present in case of the criminal offense of criminal association (Article 346 CL of RS), there will be the concurrence of the offense of terrorist association and other executed offense.

In the end, it is obvious that, unlike the amendments from 2012, which were mainly focused on the corpus of terrorist criminality in the narrower sense and amendments from 2014, which were mainly focused on the corpus of terrorist criminality in the widest sense, the upcoming novel of the Substantive Criminal Law of the Republic of Serbia brings only slight changes in this field. In that way, for example, with the Draft of the Law on Amendments of Criminal Law, for the most serious form of expressing criminal offense of terrorism (Article 391 paragraph 4 CL of RS), the prison for at least 12 years or life imprisonment is predicted. For the most serious form of expressing the tort of using lethal device, the sentence of at least 10 years in prison or life imprisonment is predicted and the same sanction is threatened to the executor of the most serious form of expressing destruction and damage

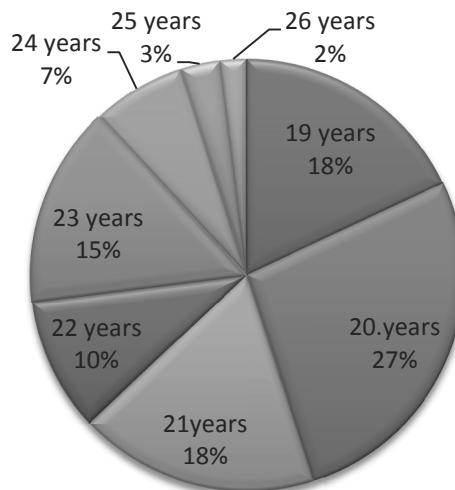
of a nuclear facility from the Article 391g paragraph 3 CL of RS.

We must particularly stress that there was an identical sanction also threatened for the executor of the most serious form of endangering persons under international protection (392 paragraph 3 CL of RS). It means that in the aspect of the threatened sanctions, criminal acts of using lethal devices and destruction of nuclear facility that are classified into the acts of terrorist criminality in narrow sense and criminal act of endangering persons under international protection that are classified into the acts of terrorist criminality in the widest sense, correspond with each other in the aspect of qualified forms of expression. It is obvious that the most serious form of criminal act of terrorism the most severe sanction is threatened – which is quite expected and entirely justified.

Mutatis mutandis, the same can be applied to solutions in the Draft Law on Amendments to the Criminal Law, regardless of the fact that legislator has dropped the life imprisonment in the meantime.

3. PERCEPTION OF TERRORISM AS REAL THREAT – STUDY OF THE ATTITUDES OF STUDENTS IN BELGRADE AND NOVI SAD

While in previous part of the paper we considered terrorism from the aspect of national criminal legislation, in this part the analysis is extended to the perception of students from the faculties of law in Serbia on danger of terrorism and current safety occurrences in direct environment of the Republic of Serbia. Also, it is required to mention that perception in this study is used as a psychological term that refers to observation.



Graph 1. Age structure of respondents

The students have expressed their perception of vulnerability by the attitudes through the answers offered in the survey. The attitude is the term which includes man's experience, evaluation and comprehension of the subject, attitude, emotions and activities that are his reaction to it. In addition, when we talk about the attitude we shouldn't neglect the activities of social forces, which means that attitude is a changeable, acquired disposition, acquired readiness to perceive, think, emotionally react and act in a particular manner (Rot 1994)

In the study regarding the perception of the threat of terrorism, the students of the Faculty of Law of the University in Novi Sad and Faculty of Business Studies and Law of the University "Union-Nikola Tesla" in Belgrade were interviewed. In total, 200 students were surveyed, with equal representation.

The first questions were related to the gender, respondents' age, as well as years of studying, while the second part referred to the attitudes of students regarding the safety of the city they live in and their vulnerability to terrorism. Regarding the issue of gender structure of respondents, both genders were present, which is not any special indicator, considering that respondents were randomly chosen and based on the expressed willingness to contribute to the study.

Based on the age structure of respondents we can conclude that there is no dominant age group, but that respondents aged 20 set aside with 27% share, 19 and 21 years with 18% each. On the other hand, the least share had the respondents aged 24 (7%), 25 (3%) and 26 (2%).

Generally, it is about young population of students from the faculties of law in Belgrade and Novi Sad, with average age of 21,2. In relation to the year of studies, most of the respondents are at the second year 42%, and then fourth 21% while the least share have the students of the third year (19%) and the first year (18%).

In internal structure of respondents, there is an obvious difference for the second year that mainly consists of the students from the University of Belgrade with 48% and on the other hand, the third year with 14% of students from the University of Belgrade and as for the students of the University of Novi Sad there are 36% of them in the second, i.e. 18% in the first year.

Table 1. Structure of the sample according to the year of studies

Year of studies	Faculty in Belgrade (%)	Faculty in Novi Sad (%)
First year	18	18
Second year	48	36
Third year	14	24
Fourth year	20	22

If we would give a general overview of our sample, we could say that it is about the students of the second year of the Faculty of Law in Belgrade or Novi Sad, aged 21 and it can be either male or female.

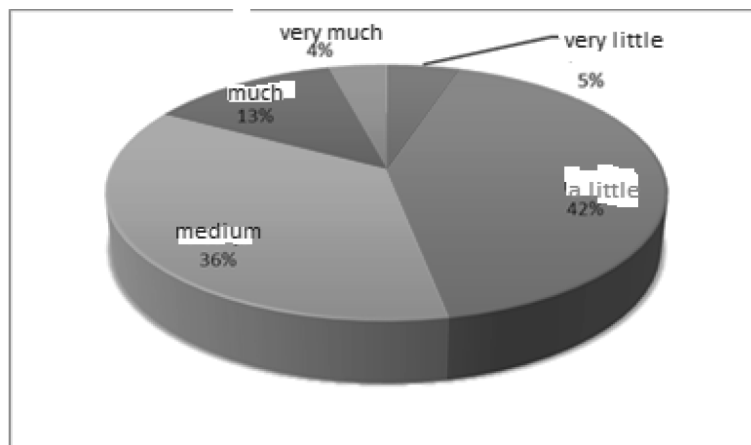
Theme of terrorism was observed from different aspects and the starting point is in the perception of students regarding vulnerability to terrorism in the city they live in. In addition, terrorism is observed through the aspect of criminal law in the light of innovating

national legislation. Having in mind that respondents were the students of the faculties of law, they have basic knowledge on terrorism as criminal offense, they are literate and with developed communication in written form.

The second part of respondents consisted of precisely defined questions and modalities of answers, where their number (five) was the same and in the same order. Main goal of the questionnaire was to discover the attitudes of students from the faculties mentioned regarding the perception of safety and possible vulnerability to modern terrorism in the light of current changes in national legislation.

Regarding the threats to personal safety in Novi Sad and Belgrade, the attitude of respondents is clear and unambiguous. Namely, about 47% of respondents feel safe and they do not observe forms of endangering personal safety, while 36% evaluate vulnerability to be at the medium level and 17% at much higher, i.e. they perceive some forms of endangering. However, in case of respondents from the Belgrade faculty there is an increased uncertainty level because 44% have evaluated the endangerment as medium, 20% as much and 6% as very much expressed.

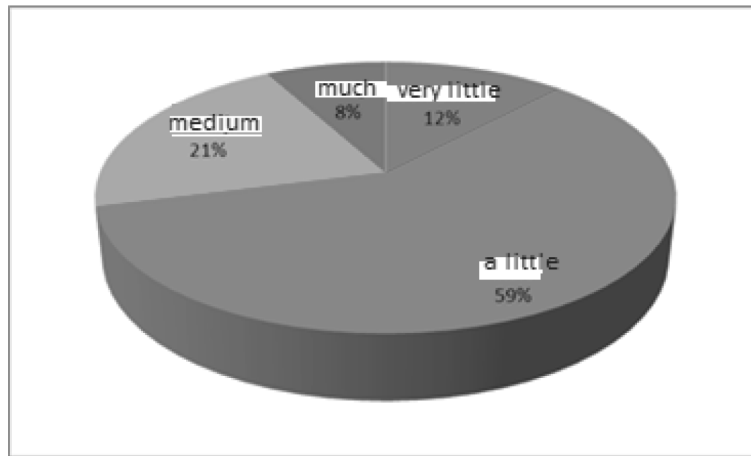
The reason for the differences mentioned can, among other things, be found in current occurrences related to migrant crisis. Namely, unlike Novi Sad, Belgrade also had a significant role in the last and this year in transit of migrants from Syria, Iraqi and Afghanistan through Serbia. Many occurrences related to migrant had a negative safety connotation where the role of the media regarding this issue has also affected the perception of respondents. In addition, differences can also be found in the fact that according to the census from 2011 in Belgrade there lives more than 1,6 million of people and in Novi Sad 341625 people, which is about five times less (RBS RS Municipalities and regions... 2013). This certainly affects the expression of the most diverse forms of criminality which is, among other things, also reflected on the perception of the safety of respondents.



Graph 2. Results of evaluation of overall vulnerability of city's safety (Novi Sad and Beograd)

When it comes to terrorism, the attitudes of respondents are quite clear because 71% do not perceive terrorism as a form of endangering personal safety, while only for the 8% ter-

rorism is a form of jeopardizing the safety of the city in which they study. Therefore, we must mention that according to the internal structure of results mentioned, 8% are responses of the students from Belgrade faculty, while in case of those from Novi Sad the perception of vulnerability to terrorism ends at medium level. The attitude mentioned can be analyzed in many ways, but certainly it is also because the Republic of Serbia was spare from terrorist attacks on its territory in the past. On the other hand, many cities in Europe have lately been the subject of terrorist attacks of different extremists in order to achieve different political goals.

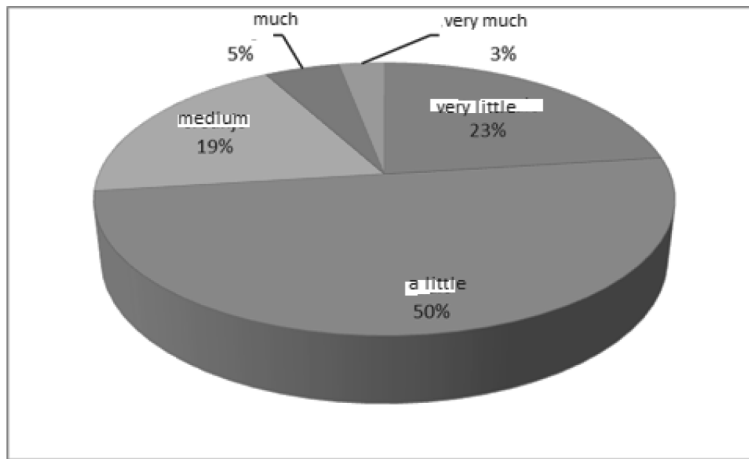


Graph.3. Results of the evaluation of the share of modern terrorism in endangering the safety in city (Novi Sad and Belgrade)

The attitudes of respondents when it comes to possible endangering of safety by Albanian terrorism are largely matching the results mentioned. Namely, according to the attitudes of respondents, 73% of them doesn't see Albanian extremism as a possible form of jeopardizing safety and only 8% as a possibly stressed manner of jeopardizing personal safety. The same as in the previous case, here the results of respondents from the Faculty of Novi Sad are grouped in three initial modalities unlike the Belgrade colleagues who have classified their attitudes into five modalities with a clear tendency of dropping.

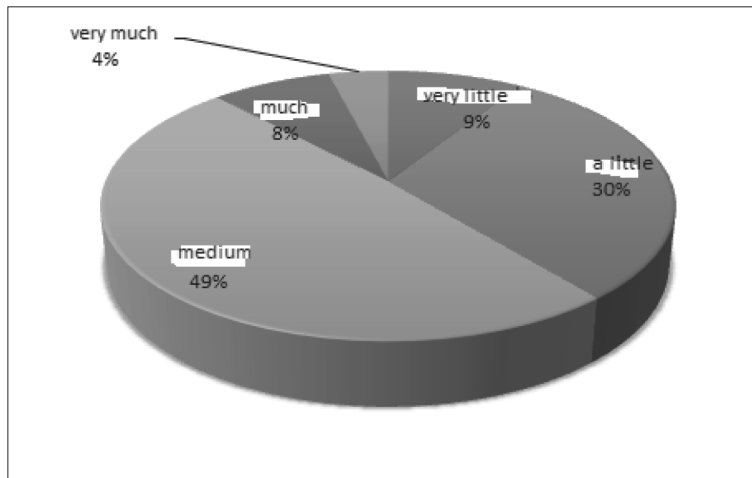
In addition to the questions mentioned, the survey also included those that refer to the possibility of jeopardy from international Islamic terrorism and current refugee crisis. The attitudes of respondents largely correspond to the results mentioned regarding the previous questions and for that reason they will not be specially analyzed.

In relation to previous attitudes in a direct relation there is also a perception of respondents towards competent government bodies in charge for taking measures for the prevention of the expression of terrorism in the territory of the Republic of Serbia. Since from the previous results we can conclude that respondents feel safe and that they do not perceive terrorism as a form of jeopardizing personal safety, their affirmative attitudes towards the subjects of national safety were expected.



Graph 4. Results of the attitudes on possible jeopardy from Albanian terrorism

In this regard, the attitudes of respondents show that competent bodies undertake adequate measures, because extreme attitudes regarding this issue exist only with 13% (very little 9% and very much 4) i.e. 49% respondents claim that the activities of government bodies are at the level required. According to internal structure of results, this model was mainly chosen by the respondents from the faculty in Novi Sad (66%).

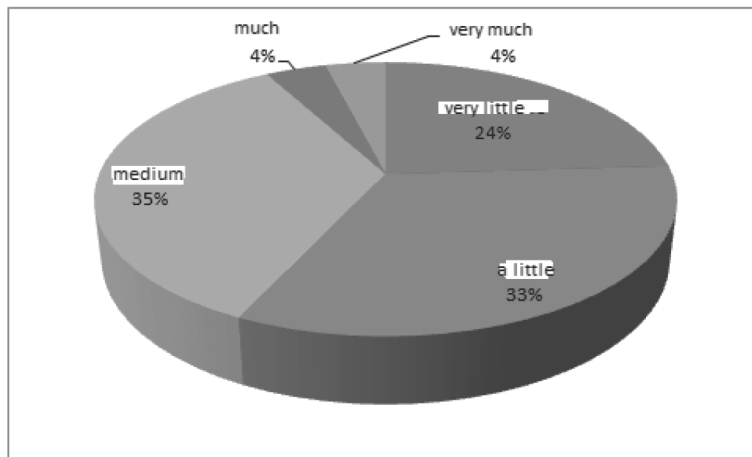


Graph 5. Results of the attitudes regarding the activities of the competent government bodies in undertaking measures in terrorism prevention

One of the questions in the questionnaire referred to the height of the prescribed punishment for the criminal offense of terrorism. Innovations in the legislation in this field

include the changes that refer to the height of punishment for the particular criminal offense. Having in mind that the respondents are students of the faculties of law, i.e. familiar with case thematic, their attitudes about the height of the punishment from the aspect of discouragement from the expression of terrorist activity are significant. In relation to this, the attitudes of respondents, 59% of them, say that the prescribed punishment is small, i.e. that it does not have a sufficient effect on discouraging the potential terrorists, 35% believe that the punishment is adequate and 8% that the prescribed punishment is too high for this criminal offense. According to the internal structure of attitudes, the attitude of the students from the faculty in Novi Sad prevails, 50% believe that the prescribed punishment is adequate. On the other hand, students from the faculty in Belgrade had extreme attitudes (much 8% and very much 8%). In addition, the respondents from the faculty in Belgrade had their attitudes in all five modalities, while their colleagues from Novi Sad have grouped them into the first three modalities, i.e. they have significantly more homogeneous results.

General conclusion regarding this issue can be briefly summed up that respondents believe that prescribed punishment will not have a significant effect on potential terrorists to express their activity, i.e. it is required to have a more severe punishment so that it could discourage potential terrorists from terrorist acts.



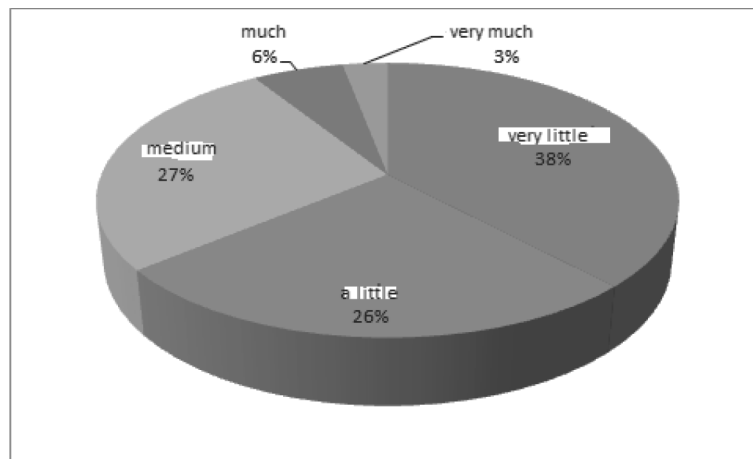
Graph 6. Results of the attitudes regarding the prescribed punishment for the criminal offense of terrorism

In the previous part of the paper, we stressed that one of the characteristics of changes in national legislation was the introduction of a separate criminal offense participation in war or armed conflict in a foreign country. For the mentioned criminal act, the punishment up to five years in prison is prescribed, which was one of the questions regarding the adequacy of the punishment for the citizens of the Republic of Serbia who fight on different sides in armed conflicts in different parts of the world. The results of the attitudes regarding this issue are clear and unambiguous because 64% of respondents believe that the punishments for this criminal offense are small, while only 9% believe that the punishments are big. We can indirectly, based on the results mentioned, conclude that respondents not only

disapprove, but also deprecate the participation of the citizens of Serbia in war conflicts outside the national borders.

In the analysis of the attitudes mentioned, it is necessary to stress the role of the media which have shortly before the implementation of the case study paid a lot of attention to this issue. It has, among other things also contributed to the building of the perception of respondents. Namely, very often in written and electronic media, the participation of the citizens of the Republic of Serbia in Syria and Ukraine was observed from the aspect of vulnerability to safety. Namely, after their return from the theater of operations abroad, they become the carriers of propaganda activities, encouragement of the others to take part in war conflicts in other countries and, in addition, it is about trained individuals who can perform a terrorist act in the territory of the Republic of Serbia as well.

In relation to the results of the previous question, we observe the difference in two modalities because greater number of respondents believe that punishments for taking part in the war in a foreign country are small unlike the criminal offense of terrorism where that relation is smaller, i.e. the more expressed is the attitude that the punishment for the criminal offense of terrorism is adequate. In case of extreme attitudes (much and very much), the differences are insignificant.



Graph 7. Results of the attitudes on the height of the prescribed punishment for the criminal offense of participation in war and armed conflicts abroad

CONCLUSION

Escalation of terrorist attacks throughout the world, as well as organized or independent participation of some citizens of the Republic of Serbia in paramilitary formations abroad and their return, the current migrant crisis in direct environment, are only some of the most important characteristics of the previous period. In such circumstances and with the beginning of the EU joining negotiations, the Republic of Serbia has, among other

things, innovated the national criminal legislation. Analysis of the novelties points to the introduction of the new as well as the changes of the existing criminal acts and the greatest changes are executed in the sphere of terrorist criminal.

However, the very identification of the corpus of criminal offenses in our criminal legislation is additionally complexed after the law novelties from 2012 and 2014. since, at the present moment, we can speak about this phenomenon not only in a narrower and wider, but also in the widest sense. The solution mentioned is the result of harmonization of national criminal legislation with *acquis communautaire* of EU.

Analysis of the newly-formed provisions shows that terrorist crime in its narrow sense includes only crimes against humanity and other goods protected by international law, more precisely: terrorism (Article 391. CL of RS), public incitement to commit terrorist offense (Article 391a CL RS), recruitment and training for terrorist acts (Article 391b CL of RS), use of lethal device (Article 391v CL of RS), the crime of destruction and damage to a nuclear facility (Article 391g CL of RS) and financing of terrorism (Article 393 CL of RS).

Terrorist criminality in its widest sense, in addition to all above mentioned, includes some other crimes against constitution and security of the country that are terrorist in their nature (for example: criminal act of diversion from the Article 313. CL of RS).

Terrorist criminality in its widest sense, in addition to all above-mentioned, also consists of: unauthorized procurement and endangering the safety by nuclear materials from the Article 287. CL of RS, participation in war or armed conflict in a foreign country from the Article 386a CL of RS, organization of participation in war or armed conflict in a foreign country from the Article 386b CL of RS, endangering of persons under international protection from the Article 392 CL of RS, and terrorist association from the Article 393a CL of RS.

In addition to the observation of new solutions from the aspect of criminal law, current novelties are also observed from the aspect of subjective perception of the threat of terrorism from the part of the students of basic studies of the Faculty of Business Studies and Law and the Faculty of Law of the University in Novi Sad. For this purpose, a questionnaire with twenty questions has been created in order to determine the level of direct endangerment from national and international terrorism, as well as the expected effects of the changes in national criminal legislation.

Basic application of the statistical method in this study was related to quantitative processing of data that refer to distribution of the attitudes in evaluation scales that are given to the participants in anonymous survey along with the questions. Graphical models used in the forms of the graphs for presenting quantitative results of the application of statistical method to the data obtained through examination, for the purpose of confirmation or rejection of the claims. Mathematical models are also applied within the statistical method, in preparation of the results presentation in graphs and tables (Milošević, Dostić, Trumbić 2016).

Analysis of research results can enable us to reach the most important characteristics that can be summed up through a several points and from which it is possible to start the new research – and maybe someone could have that in mind when it comes to a possible innovation of the national criminal legislation. General attitude is that our respondents feel safe in Belgrade and Novi Sad. The mentioned is also supported by the fact that terrorism as a form of endangering the safety is perceived by a very small number of respondents, i.e. it is seen as something that happens far, far away from us. This simultaneously refers to Alba-

nian extremism as a possible form of endangering personal and national safety. To a certain extent, we have similar results when it comes to international Islamic terrorism and current refugee crisis.

In accordance with the above mentioned are also the results expressed through the attitudes of respondents towards the subjects of national security. Namely, about 50% of respondents believe that competent government bodies undertake the measures required to fight terrorism and 39% evaluate their activity as little and 12% are much expressed. What is particularly interesting is the disagreement of respondents with the height of the prescribed punishments for particular criminal offenses from this field. Namely, respondents believe that punishments for criminal offenses are inadequate to the seriousness of criminal offense, i.e. that they must be significantly higher. This is simultaneously one of the recommendations that can have its application in the announced innovations of national legislation.

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