

LITERATURE

- [1] Cindori, S., (2013), Money laundering: correlation of risk assessment and suspicious transactions, selected translations no. 16/13, Institute of Public Finance,
- [2] Teofilovic N., and Jelacic M., (2006), Prevention, detection and proving of criminal acts of corruption and money laundering, Police Academy, Belgrade
- [3] Vesić D., (2008), Economic and political component of money laundering corruption, UDK: 343.352 Biblid 0025-8555, 60 Vol. LX, no. 4, pp. 481-501,
- [4] Vinšalek Stipić, V., Blažević, L., Managing Using Access Based on Risk Assessment and Money Laundering Risk, Practical Management, Vol. II, no. 3, p. 73-79
- [5] Law on the Prevention of Money Laundering and Financing of Terrorist Activities of BiH "Official Gazette of BiH" No. 47/14

HOMELAND SECURITY IN THE CONTEXT OF STATE LIABILITY FOR THE DAMAGE CAUSED BY TERRORIST ACTS

Siniša Bilić, email: sbilic.mostar@gmail.com

Safet Subašić, email: safetsubasic58@hotmail.com

Vedrana Macanović, email: vedranamacanovic@gmail.com

Abstract: In this paper the authors discuss the essential aspects of establishing material responsibility and conducting the pecuniary damage caused by terrorist acts. This paper is trying to clarify the specific point of view of its international legal peculiarities by taking into account that this matter is not deepened in the scientific and professional literature. After years of vacuum, and frequent acts of terrorism, many countries are beginning to normatively edit these relations. There is a need for international legal codification of legal standards that would regulate the mentioned area and the need for unification of procedural, legal actions and proceedings damages. The authors elaborate the general principles and requirements of damages, putting them in the context of the specifics of terrorist activities damages and making a distinction between the principle of compensation for material damage in ordinary civil proceedings and the application of those principles in proceedings of terrorist act damages. This is necessary due to the nature of terrorist acts and the problem of determining the offender, and determining the holder of the reparation obligation for the damages. In addition, how will a person who commits a terrorist act, and has no property, compensate the damage, and to whom to alienate its obligation to make damages reparation. The paper accepts two options, one of which involves the state reparation and the other involves responsibility to repair the damage by other legal and natural persons. To illustrate these concerns and alternatives authors give clear examples for adverse events of a terrorist character without coverage.

Keywords: Terrorist act, accountability, compensation

1. INTRODUCTION

The general issue of life and property security in the context of terrorist activities is increasingly dominant from various aspects. Modern terrorism is constantly increasing, renewed and perfected at a growing technical and technological level, and its efficiency is constantly increasing. This problem is multidimensional because it contains elements of both public and private law areas, and the key issue that arises is the issue of fundamental conceptual, theoretical, legal and procedural-factual assumptions of the state's responsibility for the damage from terrorism. Apart from these issues, the possibility of securing property and persons for those acts and delicts that result from terrorist activities is also doubtful. Can a State or another entity accept the obligation to insure assets and persons if they know the specific nature of terrorist activities. On the other hand, if there was no obligation of a state that would force citizens to protect its citizens with their organization and powers, then a greater amount of legal and total social uncertainty would be created. Accordingly, there is a need where a State or some other public entity undertakes to assume the obligation to insure property and persons for terrorist acts. For these reasons, which can be labeled as fairness and solidarity, the European Convention on the Compensation of Victims of Violent Crimes, of 1983, arose. The objective of the Convention is to inaugurate the obligation of the state to compensate for the damage that citizens and other legal entities have from the grave consequences they have

suffered when committing intentional crimes. It should be emphasized that the Convention does not directly refer to terrorist offenses, but it can be concluded that it contains them, and secondly, the Convention foresees mainly measures for the reparation of bodily and other damage sustained by the victim rather than the material damage suffered by a person in a terrorist act. The Convention only refers to the possibility of compensation for damage to personal belongings which the victim used or had on himself at the moment of committing the crime. Based on the Convention, some states are defined and defined in their laws.¹³⁰ Considering the time when the Convention came in, it is understandable that it did not directly identify terrorist acts as a special segment of compensation for damages.

The question of responsibility of the state for damage caused by a terrorist act at the end of the 20th century it was extremely controversial. The reason and cause of the dispute is the existence of a legal vacuum in this area. This issue was not legally established. The legal vacuum dominated until the beginning of the 21st century. Only when terrorism has assumed greater proportions, the need to protect citizens and their property has increased, and define the rights and obligations of the state in cases of terrorist attacks and large-scale violence, which usually arises during the gathering of citizens at demonstrations. In cases of terrorist attacks, greater material damage is created which should be compensated for by legal and physical persons.

¹³⁰ For example, the chapter "Compensation for harm to nanotech cases", Article 14 of the Law on Financial Benefit for Victims of Violent Crimes of

the Republic of Slovenia, while Croatia passed the Law on Financial Benefits for Victims of Criminal Offenses (Official Gazette No. 80/08 and 27/11).

After many years of vacuum, and especially after frequent terrorist acts, many countries have tried to regulate the area of compensation for damages in the event of a terrorist attack. The purpose of this arrangement of relations was the protection of the interests of individuals, but also the public interest. Namely, the constitutional and legal principle of protecting the physical integrity of citizens and protecting their property is related to the inauguration of the right to compensation, the assumption of the obligation by the state, the procedure for filing the application and the jurisdiction of the administrative bodies for acting upon the claim for compensation of damages, and at the end, the limit of the maximum amount is determined which is obliged to pay the state in case of a terrorist act. Such solutions are based on the principles of solidarity, uniform burden of public freedoms, and fair and prompt redress. The damage caused by acts of terror and other acts of violence undertaken with the aim of serious violation of public order, intimidation and provocation of feelings of insecurity of the citizens, including the demonstrations of citizens with manifest forms of disturbance of public order and peace, and the safety of citizens and their property, is being reimbursed. There is a dilemma, if the public authority is obliged to protect the safety of citizens and establish public order and peace, then logically it can be concluded that the state is obliged to provide conditions and protect citizens from terrorist and other harmful activities.

¹³¹ In Russia, responsibility for the damage of a terrorist act is extended to the family. See: Федеральный Закон о внесении изменений в отдельные законодательные акты Российской Федерации, <http://asozd2.duma.gov.ru/addwork/s cans.nsf/ID/106BCCDBDCFADABB43257BF300>

The constitution of most states defines citizens' right to property security, and logically follows that the state has taken over the protection of property and persons.

The question arises, who is responsible for terrorist acts? In particular, it can be considered as the material material liability of the perpetrators of terrorist acts. Apart from her theoretical and legal dilemmas, she also has practical doubt. How a person who commits a terrorist act, and does not have assets, will compensate for the damage that has occurred. To whom to transfer his obligation, that is, how to reparation of damage to legal and physical persons in terrorist acts. There are two options, the damage is settled by the state and the other, the liability for damage is extended to other legal and natural persons.¹³¹

In the further part of the paper, it is questioned whether there are legal theoretical foundations for determining liability for damage caused by a terrorist act, and points to some important dilemmas in determining the character and character of the terrorist act and the liability for the damage that arises. There is another significant discourse of the topic related to the occurrence of the obligation to compensate damage as well as its specificity. The compensation for damage caused by a terrorist act belongs to the domain of non-contractual obligations, because their manifestation does not require consent or manifestation of party will.¹³²

2A59C9/\$File/3476676.PDF?OpenElement, (28.11.2016.)

¹³² For example: Whoever inflicts a bodily injury on someone else is obliged to compensate him on the basis of the fact that already by the occurrence of a bodily injury a compulsory relationship of liability for damage to the author has arisen.

Legal writers agree that liability for damage is the most typical extra-contractual relationship created to protect existing situations.¹³³ In the event of liability for damage resulting from terrorist activities, it can be stated that liability for damage is not completely identical to the elements of property rights and obligations. The notion of liability for damages, as a mandatory term, contains in itself the determination of liability for damage as a liability of one party which caused the damage to the other party to repair it. In the case of a terrorist act, there is no one party, and that party that is obliged to compensate. It should also be noted that legal theory and positive law in most legal systems defined the preconditions for the existence of liability for damage. Therefore, in order to have a liability for damage in the event of a terrorist attack, it is necessary to fulfill the conditions: (1) The existence of the person responsible for the damage (pest) and the entity claiming compensation (damaged). In every case, even in the case of a terrorist act, the pest is a natural person, and only one who can individually answer for the damage. Her belonging to a terrorist organization does not mean that responsibility for damages can be attributed to that terrorist organization because they are not legal entities. An entity that can be responsible for damages must have intelligibility, which in this case is actually a delictal ability, that is, it must have at least 14 years of life and mental health. The specification of terrorist acts is in the fact that a small number of perpetrators survive the act itself and that there is a significant

number of extremely young people under 14 years of age in the service of a terrorist organization for the execution of terrorist acts. In this context, it can be understood that in this case, any person committing a terrorist act can be a pest, but not every pest has to be personally liable for damage. Therefore, there is a pronounced problem of determining the person responsible for the damage. (2) Pests harmful, which is at the same time the legal basis of liability for damage, although the legal theory stands at the point of view so that the legal basis of liability for damages should be the factual state of damage. The terrorist act, on its basis, aims at creating fears that result from killing and causing material damage to people who are targeted by terrorists.¹³⁴ Namely, the object of terrorist activity is the property of the people, if we neglect it, the damage to property of people is a consequence of terrorist acts. The legal theory is not unique in determining the character of the harmful action in this case. The terrorist act is, in its essence, a criminal offense and is processed by a criminal law of most legal systems. Unlike a criminal offense, a civil offense is defined in regulations in general, for example, because it is not important for a civil offense what is a harmful act, but it is essential that it is the act that caused the damage.¹³⁵ It is understandable then that an act may at the same time be a criminal and civil offense, most often if the offense is caused at the same time by a criminal offense. (3) The existence of damage that must arise on the side of the injured party. All damages are divided into property and

¹³³ See: Vedriš, M. (1976) Fundamentals of property law. Zagreb: Informator, p. 295

¹³⁴ Almost all definitions of terrorism agree that terrorism results in the killing of people and causing material damage to individuals and the state. See:

Mijalković, S., Bajagić, M. (2012) Organized crime and terrorism. Belgrade: Criminal Police Academy, p. 300-331.

¹³⁵ Any criminal offense may not necessarily be a civil offense at the same time. op. author.

non-immovable property. In the event of a terrorist act, both types of damages occur. The focus of the topic is property damage, in which the property is reduced. However, it should be noted that in the wounding of people in a terrorist act there is a reduction in the working ability of wounded persons, and loss of earnings or loss of maintenance is a property damage that has a property character. (4) A causal link (causal nexus) in which a harmful act has been committed must cause a certain damage as a consequence. Without causality there is no pest liability. It is almost completely clear that there is a causal link in the case of a terrorist act, regardless of the fact that the legal theory holds that the causal link is never suspected, because if the causality was assumed it would mean that the injured party, proving a harmful act and damage, could have been harmful to seek the responsibility of the pest. (5) The unlawfulness of the harmful activity and the resulting damage. Each unlawfulness has its own objective and subjective elements. An objective element is when a harmful act is contrary to some legal rule, and the subjective, the guilt of the pest. The question, whether there is a terrorist act or not an unlawfulness as the presumption of liability for damage is almost irrelevant. When it comes to guilt, in the case of terrorist acts, it has an entirely different dimension than that defined by criminal law. One of the features of terrorist acts and all serious forms of violence is wickedness as the highest level of intent, where the perpetrator of the terrorist act has knowledge of the unlawfulness and still exhibits a certain joy in seeking to inflict special damage. It should be emphasized that liability for damage is only caused if the harmful act is unlawful, and as soon as the harmful act is unlawful, the damage is

also unlawful as a consequence of such an action. However, the question arises, what is the criterion for establishing responsibility for damages in general, and in particular the liability for damage caused by a terrorist act.

Accordingly, the underlying assumptions of liability for damages are: harmful action, damage, causal relationship and unlawfulness. However, even when all of these assumptions are fulfilled, we still do not know if the pests were responsible. It must be determined whether in a particular case the unlawfulness is based on objective or subjective elements. Through the history of the law, we see how the damage first corresponded to an objective criterion, so in the primitive legal systems the pestilent is responsible for the damage, regardless of guilt and intent. Over the course of history, she has been overwhelmingly responsible for the damage under the criterion of guilt. If so, then the question arises as to how the guilt can be ascertained for the damage that arises and which is realistic if a terrorist act is carried out by a person who is mortally suffering and who is either an unknown identity or a foreign citizen. Illusion is the transfer of guilt to the state, because then we are moving away from the fundamental principle of subjective guilt and personal responsibility. If the State assumes responsibility then it deviates from the principle that there is no pest liability as long as it is not guilty of the damage or reparation of its damages, and seeks to prove the harmful acts of the pest, damage, causal link and unlawfulness, and within the last and pest of the pest. This is, as the legal theory states, the criterion of proven guilt. In practice, the basic problem is how to prove the guilt of a pest, which must be proved by the injured party. In the case

where the State assumes responsibility for the damage resulting from a terrorist act, the guilt is not proven, or the fault is on the side of the state that is judging by it, it should logically prevent the occurrence of the damage. As it did not, the guilt is due to omission, or failure to prevent the occurrence of damage. The legal history and the present state the cases in which the state assumes responsibility for the damage that arises. But to date, this responsibility was for damage resulting from unlawful or unknowing work.¹³⁶

The damage was compensated by the organization in which the person who did the same caused the work, while the organization later compensated.

In accordance with the above, a question of an international legal character may be raised, and it relates to the possibility of state responsibility for the damage caused by a terrorist act by a citizen in another country, and later regressing damage from the perpetrators of a terrorist act. International law currently has no position on this, nor do there exist any analogous solutions to this. The right of foreigners to enter another country and the freedom of their movement in that country are unquestionable. When staying in another state, the party enjoys certain rights guaranteed by international law. The subject of these rights is an individual, but the cover is the countries that enter into contractual relations and define rights and freedoms. By assigning travel documents and giving freedom of movement outside the borders of a state, the question arises as

to the obligations of that state which gives the opportunity to their citizens to travel. They enjoy the protection of the state they come from. However, foreigners who commit terrorist acts that cause material damage by returning to their home country can avoid that responsibility, that is, if mortal deaths arise, the question arises as to whether it is justified when the material damage of foreign nationals would be compensated by a state. Current solutions, for example in the Republic of Croatia, are accountable to the state for damage caused by terrorism, and are not based on the state's obligation to prevent terrorist acts, which was the case until 1996. It is quite certain that the state can not be a cover for the prevention of terrorism nor be fully responsible for the non-incident to commit terrorist acts.

The adoption of the law regulating this matter has determined that the pecuniary damage is compensated in a way other than that which is foreseen for damages in contractual and other relationships. Instead of financial compensation, the injured party is entitled to compensation, which involves the construction of a damaged facility or the purchase of items that are damaged. In the legal theory, this type of compensation is called a natural restitution, which denotes a procedure in which the damaged person returns the previous state, that is, returns everything that is seized or damaged by the harmful act.

¹³⁶ This responsibility in our legal system dates back to the 1963 Constitution, which stipulated in Article 69 that: "Everyone has the right on compensation for damage which, in connection with the performance of a service or other activity of a state body or

organization affairs of public interest, inflicts on them by illegal or irregular work by persons or bodies performing that service or activity ", op. author.

2. SPECIFICATIONS OF THE TERRORIST ACTION

In determining the right to compensation for damage, as well as the liability for damage caused by a terrorist attack, it is of utmost importance to define the terms and their clear use. Terrorism is, as we have already mentioned, an extremely complex and difficult concept, both from the point of view of the definition of the term, as well as its origin and historical development. The difficulty in its conceptual determination is related, among other elements, to the problem of differentiating terrorism from similar phenomena. Namely, terrorism is often used as a synonym for fear of violence, insurgency, street violence, civil strife, rioting, street guerrilla, coup d'etat, and the like. Also, from the notion of terrorism, it is necessary to distinguish a much wider term of terror, which essentially refers to the psychic state of constant and intense fear associated with psychophysical excitement. Terror does not have to have political content, although it is in many cases present in some systems of governance.¹³⁷

Terrorism, as a phenomenon, within the framework of a political strategy, implies the use of violence, terror, in order to achieve political goals. Terrorism is one of the most important security, but also political phenomena of our time. This feature in the modern world seems to remain identical in the coming period. As a central national, international and global threatening phenomenon of today, terrorism poses a significant threat to security, understood as a structural element of survival and action of an individual,

society, state and international order, but also basic life functions and basic social needs. Despite the existence of a broad scientific-research interest and the fact that terrorism is the subject of interest of many scientists, theorists, journalists, and professional members of the national security institutions of many countries, there are still a number of ambiguities and dilemmas regarding terrorism. Therefore, for a more complete understanding of terrorism, its interdisciplinary scientific research is necessary. Terrorism certainly affects the overall social, economic, political, military, environmental and other trends and processes, as well as the way, quality and living conditions of a modern man.

Topics from the spectrum of terrorism are topics that, in political, economic, and in the overall social context, attract the attention of contemporary man. For this reason, the issue of terrorism deserves scientific research attention, study and teach other scientific laws, standards and achievements from the field. In the context of the topic, we will be interested in the link between the factors of insurance and the ability to secure property from terrorist acts, and the logical sequence of state responsibility in the system when there is no security and certainty of protection and prevention of terrorist acts. In this regard, we consider the emergence and determinants of property insurance. Insurance pulls its origin from the first forms of the exchange of goods between people, where, in pre-old times, a tribal society has appeared a division of responsibility in order to more easily resist

¹³⁷ Gaćinović, R. (2011) Antiterrorism. Belgrade: Official Gazette, p. 366.

life threats. Although the first manifestations of association and mutual help for the purpose of a certain survival were not an organized system of protection against the risks to which the community was exposed, the problem of risk occurrence was solved so that the destroyed goods were replaced by the creation of new ones.¹³⁸ The first known distribution of greater risk to less is found in the ancient cultures of the Old Ages, that is, 3000 BC, in China, with the purpose of dividing the risk of travel, when transporting goods across the Yangtze River.¹³⁹ A similar practice occurs in traders in ancient Babylon in order to cover the risks of exposure to the robberies of desert bandits, as evidenced by the first written evidence of insurance as a binding regulation of the Book of the Law of Babylonian King Hamurby - Codex Hammurabi, 1729-1686. p.n.e., by which caravan participants had to share the losses suffered by each participant.¹⁴⁰ The Marriage Law contained the provision as damages caused by the removal of cargo into the sea, in order to save the ship and the remaining property, all the participants in the maritime undertaking accepted by the Greeks and Romans, and they are also incorporated into modern laws adapted to the spirit of our time.¹⁴¹ The development of the company leads to the emergence of an insurance

institution, which, through two basic forms, property and non-property¹⁴², presupposes a number of risks and thus different kinds of insurance. From an economic point of view, we can say that the insurance of a set of risk pools is based on statistic laws and other scientific facts which by granting the premium, through mutual guarantees and under certain conditions, allow the provision of certain restrictions in the event of a situation that is capable of causing trouble.¹⁴³

Modern society exposes us to a number of risks, including the risk of terrorism. Although terrorism dated to the beginning of a new era, only by the globalization and development of the media terrorist organizations achieve their goals and become a global problem.¹⁴⁴ Terrorism, through the deliberate use of violence or the threat of violence against innocent persons or groups, for the purpose of intimidation and coercion of some other individuals or groups,¹⁴⁵ affects the personal and collective level by causing shock, fear, panic, suffering and victims, a disturbance of social values, a threat to the destruction of society, affects the mobility of people, economic processes, movement of goods and capital.¹⁴⁶ It is difficult to have a ready response to the terrorist threat and the consequences of acts of terrorism, and therefore, as with other risks, investing in

¹³⁸ Kozarević, S. (2009) "Risk Management and Insurance in Crisis Conditions", Proceedings, International Conference: How to Manage in Times of Crisis, Tuzla: Faculty of Economics, p. 71-81.

¹³⁹ Aržek, Z. (1995) Transport and insurance. Zagreb: Faculty of Economics, p. 23.

¹⁴⁰ Kozarević, S. (2009) "Risk management and insurance in conditions of crisis". Proceedings, International Conference: How to Manage in Times of Crisis, Tuzla: Faculty of Economics, p. 71.-81.

¹⁴¹ Kilibarda, M. (2008) Spedition and agency business. Beograd: Saobraćajni fakultet, str. 37.

¹⁴² Art. 30. st. 1 of the Law on Insurance Companies in Private Insurance ("Official Gazette of FBiH", no: 24/05)

¹⁴³ Aržek, Z. (1995) Transport and insurance. Zagreb: Faculty of Economics, p. 23.

¹⁴⁴ Marić, S. (2012) "Terrorism as a Global Problem". Medianali, vol. 6 (11), p. 87.-102.

¹⁴⁵ Primorac, I. (2007) "Contemporary Terrorism as a Philosophical Theme". Polemos, vol. 10 (1), p. 11.-26.

¹⁴⁶ Andrijević, B. (1997) "Terrorism as a global problem of all regions with developed tourism". Acta Turistica, vol. 9 (2), p. 109.-135.

security is not a loss of profit, but an investment in the future.¹⁴⁷

3. HARMFUL EVENTS WITHOUT SECURITY COVER

Madrid, 30.12.2006. Two police officers were injured in a vehicle bomb explosion. Two Spanish police officers were injured when a car exploded in a car park at Madrid's Barajas airport. Prior to the explosion, the authorities received a telephone warning that an explosive device was placed in one of the cars. It is unofficially learned that the responsibility for the explosion of the bomb was taken over by the Basque separatist organization ETA.¹⁴⁸

Mostar, 11/20/2015. In the evening, in front of the vehicle of General Ante Jeleć, the head of the Joint Staff of the Armed Forces of BiH, an explosive device was activated by making a crater in asphalt: The tunnel was closed and the wider area blocked, the police were on the spot. According to police sources, the device was most likely thrown out of the vehicle on the move, and a vehicle that was moving away quickly was noticed.¹⁴⁹

Ankara, 02/17/2016. In the Turkish capital Ankara on Wednesday, a powerful explosion arose, a Turkish television CNN

Turk reported. According to the first information, at least 28 people were killed and more than 60 were wounded. Local officials told the Associated Press that it seems that the cause of the explosion is a car bomb. The explosion occurred near the barracks, and the target was a military bus.¹⁵⁰

Berlin, 03/15/2016. Police spokesman Carsten Mueller said the explosion occurred around eight o'clock in the morning in the western part of Charlottenburg in the western part of Berlin. Investigators are acting on the assumption that it is an explosive device that is placed inside a moving vehicle, said Mueller. The identity of a dead man is not known. The police secured the area, and the pyrotechnics examined the vehicle. The surrounding population was invited not to leave the apartments and to close the windows. The car exploded while driving, and after that it got caught in parked cars.¹⁵¹

From these and many similar events, it can be seen that there are no rules that would indicate the risks of terrorism and that cars are often the means used by terrorists in the execution of terror. For this purpose, insurance companies exclude certain risks from the coverage of risk insurance, thus not covering the risks in individual cases of risk occurrence and harmful events. As such cars are subject to liability insurance,

¹⁴⁷ Bilandžić, M. (2012) "Security is a precondition for every development". <http://www.poslovnih.hr/domacekompanije/sigurnost-je-preduvjet-svakog-razvoja-204870>, (October 26, 2016)

¹⁴⁸ "At the Madrid airport two policemen were injured in an autocomb explosion." <http://www.index.hr/vijesti/clanak/na-madridskom-aerodromu-dva-policajca-ozlijedjena-u-eksploziji-autobombe/336090.aspx>, (08/26/2016)

¹⁴⁹ "BiH Police Denies Terrorism: General Jeleć hit by Gun Cannon?". <http://www.kurir.rs/region/bosna-i-hercegovina/terorizam-u-bih-eksplozivom-na->

[hrvatskog-generalabacen-eksploziv-na-automobil-ante-jeleca-clanak-2027485](http://www.hrvatskog-generalabacen-eksploziv-na-automobil-ante-jeleca-clanak-2027485), (26.10.2016.)

¹⁵⁰ "Chaos on the streets of Ankara: A bomb attack in Turkey's capital, a greater number of victims: This is terrorism." <http://www.jutarnji.hr/vijesti/svijet/kaos-na-ulicama-ankare-bombaski-napad-u-glavnom-graduturske-vecibroj-zrtava-ovo-je-terorizam/100852/>, (26.10.2016)

¹⁵¹ "Detonation shook Berlin: The bomb blew up the car while driving, the driver died on the spot." <http://net.hr/danas/svijet/teroristicki-napad-muskarac-poginuo-u-eksploziji-autobombe-u-berlinu/>, (10/22/2016)

the question arises as to whether the risk of these cars is at risk. In compulsory motor vehicle liability insurance, the risk of terrorism is excluded from the insurance and unauthorized use of the insured vehicle as a means of committing a terrorist act and the causing damage by automobile explosion is not a risk covered by compulsory motor vehicle liability insurance held on the road or part of the road closed for traffic to other drivers, aimed at achieving the highest or highest average speed, ie exercises for these events, due to the action of nuclear energy during the transport of radioactive material, due to war operations, rebellion or terrorist acts, in which case the insurance company must prove whether the damage has been caused such an event.¹⁵² The Law on Asset Insurance and Members ¹⁵³ 67 and Art. 71. the right to compensation for damage arising from compulsory motor insurance liability is defined, where the owner, co-owner, user and driver of a motor vehicle whose use was caused damages, as well as the person who participated in the unlawful seizure of a motor vehicle whose use of damages has no right to the basis of damage from compulsory insurance, but also when the insurance against motor liability is covered and the damage caused by the use of a motor vehicle that was used, or that was managed by a person who did not have authority for that. It means a person who manages a motor vehicle without an appropriate driver's license, who is trained without the supervision of an instructor in the management of a motor vehicle, who,

without the knowledge and approval of the owner or the user of the motor vehicle, uses the vehicle and the person who comes into possession of the motor vehicle in an unlawful manner. The driver of the vehicle himself who is responsible for the damage he has taken, his relatives and other legal and physical persons for damage due to the death or bodily injury of the driver are also not a third person and are not entitled to compensation for damages. At the same time, the driver does not have the right to compensation for the damage he caused himself or herself with the consequences of death or serious disability to his close person.¹⁵⁴

From this it can be seen that the driver is not considered a third person in the context of insurance coverage. The owner of the car causing the damage, if the driver is not considered a third person, in the sense of non-pecuniary damage, while for the damage sustained on the goods there is no right to compensation. The attitude of a volunteer passenger and an unauthorized driver also affects the right to compensation. If it is proved that the passenger was aware of the fact that the driver was unauthorized, according to Article 71 of the Law on Insurance of Property and Persons, he will not be entitled to compensation for damage under compulsory insurance. This law is the same even if it has known the fact of an uninsured car and a car without registration marks.

The Law on Obligatory Relations from War Risks Excluded from Insurance lists only

¹⁵² Law on Compulsory Insurance in Transport (Official Gazette, No. 151/05, 36/09, 75/09 and 76/13)

¹⁵³ Law on Insurance of Property and Persons ("Official Gazette of RS", No. 14/00, 20/00 and 17/05)

¹⁵⁴Belanić, L. (2007) "Third persons in insurance against automobile liability", Proceedings of the Law Faculty of the University of Rijeka, p. 551-600.

war operations and riots, which do not include other war and political risks and the risks of the strike, especially the risk of terrorism is not included.¹⁵⁵

For damage from terrorism, special regulations are applied for the purpose of compensation for damage to citizens by a terrorist act. After the terrorist attack on September 11, 2001, the United States. The Law on Insurance Against Terrorist Risks was adopted in 2005 to provide a unique program for the resulting losses arising from certain terrorist attacks and to protect themselves from market disturbances and to ensure coverage of the risk of terrorist attacks.¹⁵⁶

The Republic of Croatia passed the Law on Liability for Damage Caused by Terrorist Acts and Public Demonstrations¹⁵⁷ in order to regulate liability for damage caused by acts of violence or terror and during public demonstrations and manifestations, which the State is responsible for for damage caused by acts of terror and other acts of violence committed by with the aim of serious violation of public order by intimidation and provocation of feelings of insecurity of citizens, and due to demonstrations and other forms of mass expression of mood in public places. The law abounds with significant ambiguities that have been left to the judicial practice. Specifically, the determination of whether a particular case of war damage or an act of terror is in question is directly dependent on

whether the state is liable for compensation of damages or not, since the state does not respond to war damage until the damage caused by the act of terror is responsible if it is a damage caused as a result of death, bodily injury or damage to health.¹⁵⁸ Under the said law, the state does not compensate for damage to property claims, except for the restoration of damaged or destroyed goods, in accordance with the Law on Reconstruction.¹⁵⁹

4. CONCLUSION CONSIDERATIONS

From the standpoint of international law, there are no legal documents that regulate the field of compensation for damage due to a terrorist act. Already at the beginning of the work is the European Convention on the Compensation of Victims of Violent Crimes of 24 November 1983. and, as the Convention does not directly refer to terrorist offenses, but it can be concluded that it contains them, and secondly, the Convention provides for mainly measures to compensate for bodily and other damage sustained by the victim rather than material damage suffered by a person in a terrorist work. Considering the circumstances of the increase in terrorist activities, which mainly have an international character, and as some countries have already regulated these relations, there is a need for this area to be regulated internationally, where the codification and unification of legal acts, contracts and laws, and forms for

¹⁵⁵ Pavić, D. (2009) "War risk insurance", Proceedings of the Law Faculty in Split, p. 465.-492.

¹⁵⁶ "Terrorism Risk Insurance Act". http://www.naic.org/cipr_topics/topic_tria.htm, (October 26, 2016)

¹⁵⁷ Law on liability for damage caused by terrorist acts and public demonstrations ("Official Gazette", No. 117/03)

¹⁵⁸ Zrilić, Z. (2004) "Responsibility for war damage and damage caused by a terrorist act". Croatian Legal Review, vol. 11 (1), p. 1-32.

¹⁵⁹ The Law on Reconstruction ("Official Gazette", No. 24/96, 54/96, 87/96, 57/00, 38/09, 45/11 and 51/13)

conducting the procedure for compensation of damage from terrorist activities.

SOURCES

- [1] Andrijević, B. (1997) "Terrorism as a global problem of all regions with developed tourism". *Acta Turistica*, vol. 9 (2), p. 109.-135.
- [2] Aržek, Z. (1995) *Transport and insurance*. Zagreb: Faculty of Economics.
- [3] Belanić, L. (2007) "Third parties in insurance against automobile liability", *Proceedings of the Law Faculty of the University of Rijeka*, p. 551-600.
- [4] Bilandžić, M. (2012) "Security is the prerequisite for any development". <http://www.poslovnih.hr/domace-kompanije/sigurnost-je-preduvjet-svako-razvoja204870>, (October 26, 2016)
- [5] "Day after explosion under the car of HDZ-A BiH MPs: Terrorism on Zenith Streets". http://www.novilist.hr/Vijesti/Svet/Terrorizam-na-zenickimulicama?meta_refresh=true, (October 26, 2016)
- [6] "Detonation shook Berlin: The bomb blew up the car while driving, the driver died on the spot." <http://net.hr/danas/svijet/teroristicki-napad-muskarac-poginuo-ueksploziji-autobombe-u-berlinu/>, (10/22/2016)
- [7] Gaćinović, R. (2011) *Antiterrorism*. Belgrade: Official Gazette.
- [8] "Chaos on the streets of Ankara: A bomb attack in Turkey's capital, a greater number of victims: This is terrorism." <http://www.jutarnji.hr/vijesti/svijet/kaos-na-ulicama-ankarebombaski-napad-u-glavnom-gradu-turske-veci-broj-zrtava-ovo-je-terorizam/100852/>, (26.10. 2016.)
- [9] Kilibarda, M. (2008) *Forwarding and agency business*. Beograd: Saobraćajni fakultet.
- [10] Kozarević, S. (2009) "Risk Management and Insurance in Crisis Conditions", *Proceedings, International Conference: How to Manage in Times of Crisis*, Tuzla: Faculty of Economics, p. 71-81.
- [11] Marić, S. (2012) "Terrorism as a Global Problem". *Medianali*, vol. 6 (11), p. 87.102.
- [12] "Two police officers injured in an autocomb explosion at the Madrid airport." <http://www.index.hr/vijesti/clanak/namadridskom-aerodromu-dva-policajcaozlijedjena-u-eksploziji-autobombe/336090.aspx>, (08/26/2016)
- [13] Pavić, D. (2009) "War risk insurance", *Proceedings of the Law Faculty in Split*, p. 465.-492.
- [14] "BiH Police Deny Terrorism: General Jelec hit by cannon fights?" <http://www.kurir.rs/region/bosna-i-hercegovina/terorizam-u-bih-eksplozivom-nahrvatskog-general-a-bacen-eksploziv-na-automobil-ante-jeleca-clanak-2027485>, (10/26/2016 .)
- [15] Primorac, I. (2007) "Contemporary Terrorism as a Philosophical Theme". *Polemos*, vol. 10 (1), p. 11.-26.
- [16] *Terrorism Risk Insurance Act*, available at: http://www.naic.org/cipr_topics/topic_trial.htm, (August 26, 2016)
- [17] *Law on Insurance Companies in Private Insurance* ("Official Gazette of the Federation of Bosnia and Herzegovina", No. 24/05)
- [18] *Reconstruction Act* (Official Gazette, Nos. 24/96, 54/96, 87/96, 57/00, 38/09, 45/11 and 51/13)

[19] Law on Compulsory Insurance in Traffic (Official Gazette, No. 151/05, 36/09, 75/09 and 76/13)

[20] Law on liability for damage caused by terrorist acts and public demonstrations (Narodne novine, no: 117/03)

[21] Law on Asset and Property Insurance ("Official Gazette of RS", No. 14/00, 20/00 and 17/05)

[22] Zrilić, Z. (2004) "Responsibility for war damage and damage caused by a terrorist act". Croatian Legal Review, vol. 11 (1), p. 1-32.

THE IMPORTANCE OF REGISTRATION OF JOINT-STOCK COMPANIES' REALTIES IN TERMS OF LEGAL SECURITY

Jasmina Tahirović, MA, email: jasimat@gmail.com

Irma Hodžić, MA, email: irmakazi@hotmail.com

Abstract: *The source of capital is one of the most important segments of a joint-stock company as a company of capital, considering that the joint-stock company acquires its business assets in the manner of issuing of shares. One of the positive elements of security, or stability of this type of business organization, would include the ownership of realties that are registered in accordance with the valid legislation. In this manner, a legal and economic security of the joint-stock company would be achieved, in addition to the interest of foreign investors. Therefore, the manner of realties registration, as well as keeping records on realties up to date, is an important condition for the possibility of any loan debts in banks, since only such realty would be safe collateral of ensuring loan payments. This would achieve a proper legal security on both parties involved. Namely, joint-stock company that own realties which are registered in accordance with the proper legal regulations, emits a positive public image, and in this manner becomes a subject of interest for the potential investors, who would through share purchase enable and enlarge its capital. Through the sale of new shares, the joint-stock company would acquire additional money that is a guarantee of economic stability and survival on the capital market.*

Keywords: *Realty, joint-stock company, registration, legal security, capital*