

THE ROLE OF AUTHORITIES AND INTELLIGENCE SERVICES IN THE WAR ON TERRORIST FINANCING

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Abstract: *The paper aims at describing, from a practitioner's point of view, the Romanian perspective on de-structuring terrorist organizations' funding, especially in the context of recent modi operandi changes. Reference is made both to terrorist operations which require and benefit from considerable resources (such were the 9/11 attacks, as well as the entire existence and sustenance of DAESH), as well as to others which do not incur significant costs. I also intend to describe Romania's past experience proving that the fight against terrorism and its financing only by means of the Financial Investigation Units (FIU) could not generate significant results, but that it is a matter of close cooperation with both domestic and foreign entities. In this regard, I therefore intend to expand on the Romanian model of an interagency National System for Preventing and Countering Terrorism (SNPCT). As food for thoughts, I raise the issue of striking the right balance between the complexity and the large number of targets to monitor and the simplicity of their MOs, a trend we see in almost every attack after the infamous Charlie Hebdo shootings. Are the nowadays knives and trucks simpler and more undetectable replicas of the airplanes used in September 2001? And, more important, is the current system for preventing terrorism financing truly efficient, or are we once again reactive and not proactive in countering this phenomenon?*

Keywords: *financial operations; "low cost attacks"; state-like organizations; pro-active approach*

1. INTRODUCTION

The war on terror has prevailed on national and international agendas since the 9/11 attacks. Unlike traditional conflicts, where the threat and the eventual fight between opponents fitted well-known patterns, the enemy we now face is an unknown, elusive, permanently flexible, and unpredictable one. This global war is actually being fought on several fronts, ranging from the military one, to intelligence and law enforcement and to the financial one. Success wouldn't be possible without efforts to combat financing, although this is not usually the main topic of public debate when it comes to terrorism. And cutting financing, although not a means to completely stop terrorists, is indeed a part of a wider strategy, by which their actions can be constricted. Lack of funding frustrates, reduces mobility and travelling opportunities, limits possibilities to procure necessary materials, make it more difficult to promote an ideology in order to radicalize others, since Islamist propaganda plays a central role today in radicalization and self-radicalization.

The terrorist threat is global and transnational, and the same is true about the financial system. In the latter, globalization means boosts of international financial flows (let's think at least about the increasingly large sums foreign workers send home), technology allowing mobile payments, fund transfers through online entities, all these in the accessible environment that is the Internet. The Internet makes it easy and cheap to get funds, on the one side, while allowing radicalized or self-radicalized individuals access to ideology driving them to act alone, to perpetrate attacks which require virtually no financial means. Therefore, a global threat and a global infrastructure that has and can be further exploited to advance this threat require a global, joint approach. Action against terrorist financing must be joint, both in domestic cooperation, and in close international cooperation.

Targeting terrorist financing only became an obvious priority after 9/11. Historically, the international efforts in this regard were spearheaded by the United States.

Efforts focused on capacity building worldwide, based on close cooperation among financial, intelligence and law enforcement, as

well as diplomatic authorities. Capacity building targeted several necessary changes: enactment of adequate legislation to criminalize terrorist financing; establishment of procedures and regulations to protect the banking system from abuse; making use of financial intelligence for preemptive action; law enforcement with adequate authority to investigate terrorism financing; judicial process to bring financiers to justice (the need for trained prosecutors and judges emerged).

Besides American, British and Japanese efforts to lend expertise, substantial progress was brought about by the UN, through two relevant Resolutions: 1267, black-listing terrorism suspects and requiring all UN members to freeze financial assets, restrict travels and arms trade; and 1373, creating the Counterterrorism Committee – CTC. The UN International Convention for the Suppression of the Financing of Terrorism was ratified, by 2004, by 112 countries. A small G7-created organization with no law-enforcement attributes and 34 members, among which the European Commission, the Financial Action Task Force (FATF) managed to widely push their nine “special recommendations” regarding terrorist financing, that were incorporated by many countries in their internal regulations. The global network of Financial Intelligence Units called the Egmont Group, with 152 members (including all EU member-states), provided a valuable platform for FIU information and expertise exchange. The private sector undertook a more prominent role in combating terrorist financing, by developing its capabilities to detect and report suspicious transactions. After the July 2005 attacks in London, for example, the most valuable intelligence about the attackers were said to have come from British banks, a consequence of the fact that, in UK, a vetted group of private sector entities receives sensitive intell from the government, developing their analysis capabilities and increasing their ability to contribute and readily share valuable information. The EU established terrorist lists and all member-states were required to freeze their assets, while all member states established their own agencies tasked with combating terrorism financing. Gulf countries claimed to be willing to contribute to combating efforts, while becoming financial centers themselves. The UAE, for example, tried to regulate local *hawala* brokers, while many Arab countries joined the Middle East and North Africa Financial Action Task, modeled after the FATF.

A brief analysis shows that terrorism finances itself through a wide range of activities, from selling drugs and laundering money, to use or

abuse of charities or NGOs (sometimes under the cover of *zakat*), and to state sponsors. On the other hand, apart from external financing, terrorist organizations such as DAESH start a new trend by generating their own revenue in a clever state-like manner (through tax collection), as well as using methods pertaining to criminal organizations (oil and cultural artifacts sales, kidnappings, smuggling or extortions). Rather primitive methods are still used and prove difficult to trace, such as using carriers to transfer funds, smuggling cash, using *hawala* brokers, and alternative commodities such as gems and gold.

International efforts to halt terrorist financing resulted in the creation of Financial Intelligence Units (FIUs), national structures responsible for fighting money laundering and terrorism financing, and useful links between the public sector and the private one. On the one hand, we can assess that no major financial center can exclude that terrorists or other criminals are using its services for illegal purposes. In this context, it is obvious that investigating the terrorist activities’ financing mechanisms in order to find the efficient ways to suppress them is one of the successful solutions in the war on terror.

2. THE NEED FOR INTELLIGENCE AGENCIES’ INVOLVEMENT IN COMBATING TERRORIST FINANCING

Our past experience shows that the fight against terrorism and its financing only by means of the Financial Investigation Units did not generate the expected results. The investigations that concentrate solely on terrorist financing-related aspects do not deliver enough evidence for convictions or even proceedings in front of a court. Lessons learned from the 9/11 terrorist attacks show a lack of HUMINT input and data processing skills – two specific instruments of the intelligence services – on extremist networks such as Al-Qaida, therefore one can safely conclude the combined use of intelligence gathering tools has proven necessary.

Moreover, this phenomenon’s complexity continues to represent an issue of major concern, since its *modus operandi* has changed throughout the years: some terrorist operations require and benefit from considerable resources. Terrorist organizations funding is therefore still essential to build and sustain sophisticated infrastructures, so they make funding a top priority- Al Qaeda, for example, was known to have a financial committee (led by “Sheikh Said”) managing yearly over 30 million US dollars prior to 9/11, according to the

findings of the 9/11 Commission. Particular operations, nonetheless, do not incur significant costs, nor do they imply direct connection to mother-organizations. Not in the least, in the previous years we have witnessed increasingly frequent so-called “low-cost attacks”, using common Western infrastructure and facilities such as communication networks, and requiring practically nothing but a kitchen knife or a common automobile to perpetrate. While it is true that some attacks require minimum logistics and therefore virtually no funding, getting to the point of the attack – involving transportation, and training, when necessary, or at least propaganda resources for radicalization - is never free of charge. It is, therefore, ideology that needs to be countered, as the material and the financial aspects become more and more affordable for terrorists.

High-impact measures such as UN resolutions impacted large terrorist organizations, but have little or no effect over so-called “low-cost attacks”, which are more difficult to anticipate and prevent. Nonetheless, the fact that “lone wolves” are more difficult to identify is no reason to stop countering efforts, but makes them even more significant, with a focus on preemption and pro-active efforts.

From a practitioner’s point of view, although self-radicalized or “lone wolf” attackers are more difficult to detect, monitor or deter, we are always bound to act in a lawful and professional manner, within our competences and with a strong concern for prioritizing the limited resources at hand – personnel, logistics, financial, material.

The fact that sums strictly used for terrorist purposes can be relatively small, the alternative channels used to transfer money (e.g *hawala*) and the difficulties faced in identifying the illegal link of the terrorist financing chain also indicate the

need of collecting more HUMINT and of closer inter-agency cooperation.

3. OVERVIEW OF TERRORIST FINANCING

Terrorist financing resources can be legal, consisting in several methods of raising funds (NGOs, charities, sponsorships by legal companies, loans, proceedings from apparently lawful trade), or illegal, resulting from a variety of criminal activities that we have in part already mentioned. Crimes against property, drug trade, kidnapping, extortion, smuggling, economic fraud, trade in forged identity papers, illegal commercial activities are obvious choices and fall within the scope of intelligence and law enforcement’s responsibilities.

Resulting funds can be deposited and/ or transferred legally, both by using the financial system (banks, money transferring facilities) and by withdrawals of large amounts of cash or by using valuable commodities such as gold and gems. Terrorist organizations also use illegal means of depositing and transferring funds; the most well known is the use of *hawala* brokers, the traditional informal system that facilitates transfer with low costs and completely anonymously. Terrorist organizations also make use of charities and NGOs – some created intently for this purpose, others just abused, of under or overestimating traded assets or of representatives and official offices. Funds thus obtained are used legally, for political, social, and humanitarian purposes, or illegally, in order to plan (recruit, train, support the perpetrator, provide assistance to the perpetrator’s family) and enact terrorist attacks.

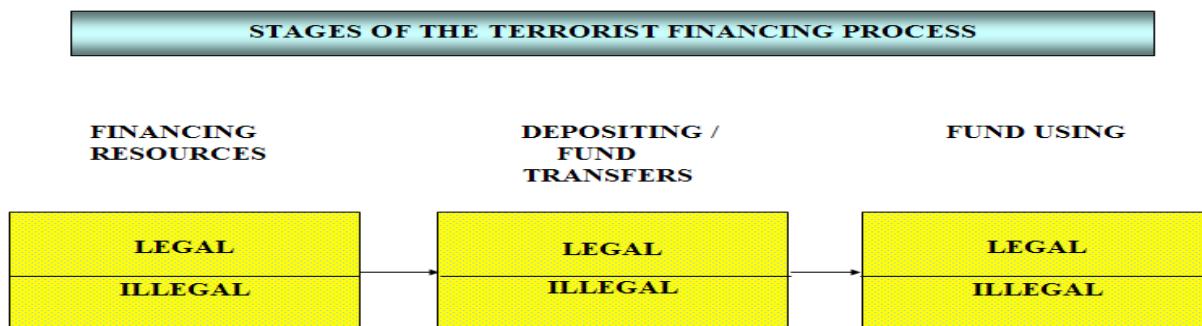


Fig.1 The Terrorist Financing Process

4. THE ROMANIAN EXPERIENCE

The Romanian experience in cutting funding for terror networks has stressed the need for

multilateral interagency cooperation both domestically and internationally, strategically and tactically. Being at NATO and the EU’s Eastern border involves specific risks and threats, therefore

Romanian authorities developed significant measures to protect the national territory and to preserve our country's status as an important pillar of stability and security in South-Eastern Europe.

Developments in the global war on terror have proven that the joint use of means pertaining to intelligence services, law enforcement, and Financial Investigation Units has led to encouraging results in the war on terror. In this regard, I therefore intend to expand on the Romanian model of an interagency *National System for Preventing and Countering Terrorism* (SNPCT).

Efficiency on a national scale involves various agencies jointly conducting specific actions in order to develop interagency cooperation, as well as close cooperation between governmental agencies, the private sector, and academia. It's worth pointing out the excellent cooperation the

Romanian Intelligence Service has developed with the National Office for Preventing and Countering Money Laundering (the local FIU), as well as with the Ministry of Finance, and the Romanian National Bank, within the framework offered by the National System for Preventing and Countering Terrorism (SNPCT). The latter, established in 2002, facilitates cooperation, information exchange, and joint action through work groups at both expert and management levels. It is coordinated by the Romanian Intelligence Service, the designated national authority on counter-terrorism, and comprises several institutions, ranging from intelligence agencies, bodies with financial regulatory responsibilities, ministries and military organizations, as seen in the Diagram below.

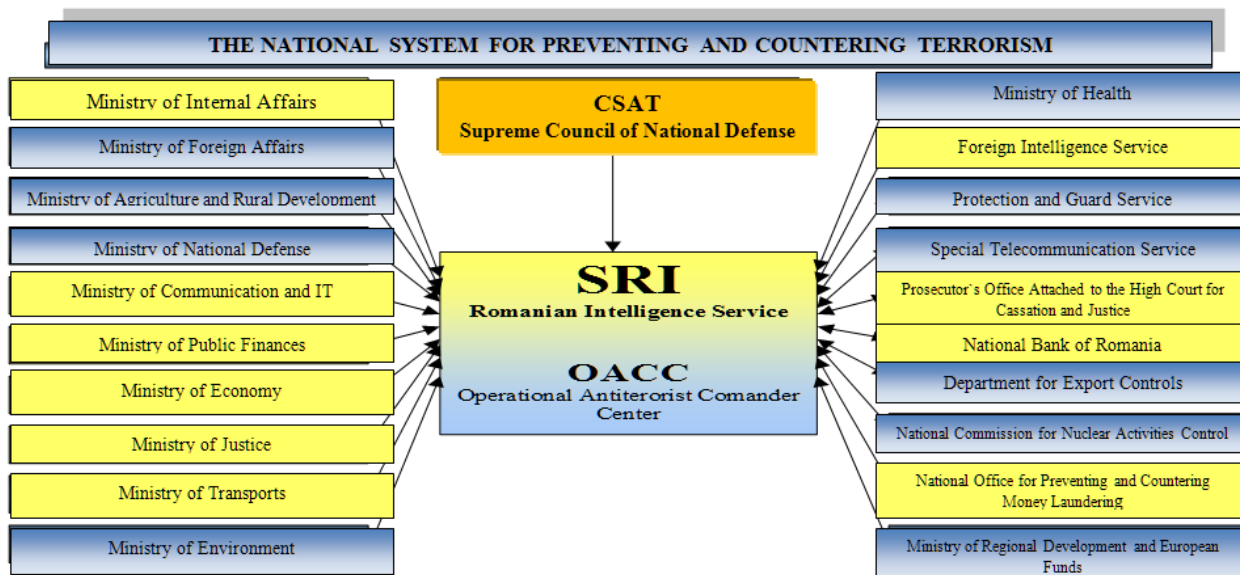


Fig.2 The Structure of the Romanian National System for Preventing and Countering Terrorism

Concerning international actions, Romania succeeded in extending the bilateral, multilateral, as well as regional cooperation, while sharing lessons learned on a tactical level with a view to strategic use.

5. CAPACITY-BUILDING IN ROMANIA

For Romania, alignment of national antiterrorist law with the international standards and the implementation of these international requirements represented a priority task. Therefore, in the years following the 9/11 events, a reactive legal framework regulating the activities of the agencies tasked to prevent and suppress terrorism was created, covering key needs among which that of combating terrorist financing. New legislation was

based on the international bodies' resolutions concerning terrorist financing, among which:

- UNSC Resolution 1267/1999;
- UNSC Resolution 1333/2000;
- UNSC Resolution 1390/2002;
- UNSC Resolution 1373/2001;
- UNSC Resolution 1452/2002.

Romania's adherence to international treaties and conventions supporting antiterrorist efforts materialized in the following national decrees and laws:

- Governmental Emergency Ordinance 153/2001 regarding the financial supervision and migration control for suppressing the international terrorism;
- GEO 159/2001 for preventing and suppressing the use of financial banking system for financing terrorist acts;

– Governmental Decree 918/2001 on the embargo imposed to the Taliban regime in Afghanistan and to the terrorist organizations based in this country;

– Law 466/2002 stipulating the freezing of all bank assets belonging to natural and legal persons suspected of having perpetrated or financing terrorist acts listed by the UN Security Council;

– GD 467/2002 completing the list of natural and legal persons/entities suspected of having perpetrated or financing terrorist acts;

– Law no. 623/2002 ratifying the International Convention on the suppression of terrorist financing, New York 1999;

– Law 164/2003 ratifying Romanian participation in the Black Sea Economic Cooperation Agreement – which also refers to the fight against organized crime and terrorism;

– Law 535/2004 on preventing and countering terrorism.

Despite considerable efforts to adjust national legislation to ever-changing threats, this was nonetheless a rather reactive endeavor, which needs to be furthered in order to keep the authorities one step before terrorists.

By decision of the Supreme Council of National Defense (CSAT) which is the administrative authority invested by the Constitution to organize and coordinate in a unitary manner activities related to the country's defense and national security (according to Law 415 of June 27, 2002 on the organization and functioning of CSAT), the following changes were operated in order to consolidate the anti-terrorist efforts:

– The Romanian Intelligence Service became the national antiterrorist authority;

– A National Strategy on Preventing and Countering Terrorism was enacted;

– The National System for Preventing and Countering Terrorism organization (SNPCT) was created, and within it, the functioning of the antiterrorist Operational Coordination Center was regulated;

– A National Antiterrorist Alert System was created.

With these efforts, Romania has considerable results. We managed to disrupt transnational illegal migration networks (also involved in forging identity and travel documents) used by a series of persons suspected of being connected to terrorist groups. National authorities brought to justice foreign nationals of Arab origin for having illegally transferred currency outside Romania (both through the *hawala* system, and through shell companies using forged customs documents in

their relations with banks); the transferred sums came from criminal activities (tax evasion, smuggling, and financial frauds – illegal VAT returns). We have also documented fund raisings on behalf of a terrorist organization (PKK) by extortion and threats, identified the external financing of several NGOs used as cover by terrorist organizations cells in Romania, and disrupted activities of a well-known terrorist of Palestinian origin involved in counterfeiting money.

5. INCREASING EFFICIENCY OF THE MEASURES AGAINST TERRORIST FINANCING

Much was done and much still needs to be done in order to maximize results in the struggle against terrorism. Much of the world got involved, but the threat is, as mentioned, ever-changing. In this regard, there is no lack of strategies and objectives which could generate progress and eventually success in this long-term battle.

In 2007, US authorities, for example, were setting high goals through their National Money Laundering Strategy; they were aiming at:

– safeguarding the banking system through close cooperation with authorities in order to enable bankers to easily detect money laundering;

– enhancing financial transparency in money services businesses;

– stopping the flow of illicit bulk cash out of the US (criminal proceedings smuggled out of the country, returning to the country as legitimate funds);

– stopping trade-based money laundering;

– increasing transparency in the ownership of legal entities.

Romanian authorities, and particularly the local FIU, The National Office for Preventing and Countering Money Laundering, have set as goals, in their 2017-2020 strategy:

– improving legislation regarding money laundering and terrorist financing;

– creating a national risk assessment in this field in order to adequately approach the phenomenon;

– increasing the quality of financial intelligence in order to provide further support for national law enforcement;

– continuing support for the international fight against terrorist financing.

From this specialist's perspective, there are four essential conditions that need to be met in order to consolidate results of actions against terrorist financing.

First of all, there is a growing need for comprehensive international conventions for suppressing terrorist financing and implementing their standards on national level. These conventions have to define the term “terrorism”, which would improve the judicial process, especially in relation to terrorist financing. After signing international conventions, states need to commit to fully implementing them in their national legislation. The results of the international standards’ implementation will also depend on the professional training of the personnel, officers, attorneys, judges, etc.

Secondly, there is a continuous need for multilateral interagency cooperation, domestically and internationally, strategically and tactically. For efficiency at the national level, various agencies have to conduct specific actions in order to develop the necessary instruments required by national strategies; regarding international cooperation, although significant headway was made in the past decade, there are still institutional and cultural obstacles which could lead to potentially lethal consequences. In Romania’s case, for example, the local FIU reported sending 199 intelligence requests to foreign partners in 2011 and receiving 200, while initiating intelligence exchange with new partner FIUs such as Kazakhstan, Malta, Hong Kong or Egypt. An efficient cooperation between governmental agencies, the private sector, and the academic world is also highly necessary. Also, the experience gained on tactical level – namely during different operations – by one of the parties involved in the global war on terrorism must be shared in order to be used at strategic level by all others.

Thirdly and of utmost importance, all involved authorities and bodies must change their attitude, abandoning reactivity in favor of a pro-active attitude or at least establishing strategies based on both defensive and offensive measures. Defensive measures have their relevance, but offence and

preemptive action – within legal and human rights limits – are the right way to minimize terrorism’s shattering effects on human lives and values.

All in all, the question we must always ask ourselves is whether existing terrorist financing countering measures really work. And finally, we need to perpetually reassess the performance of the measures against terrorist financing, making sure they stay one step before terrorist actions. They ought to be permanently tailored to new *modi operandi* undertaken by terrorist groups, particularly to new types of attacks, requiring little if any logistics and investments. Because we are talking about terrorism, intelligence organizations need to be in the forefront of this struggle and responsible to continuously reassess efforts’ effectiveness, as well as to cooperate with all other involved parties in order to ensure their positive impact.

BIBLIOGRAPHY

1. General Assembly of the United Nations. (1999). *The International Convention for the Suppression of the Financing of Terrorism*. Available: <https://www.un.org/law/cod/finterr.htm>. [Accessed May 3rd 2017].
2. Mathew, L. & Jacobson M. (2008). The Money Trail. Finding, Following, and Freezing Terrorist Finances. *Policy Focus*. #89, November.
3. National Office for Preventing and Countering Money Laundering’s Operational Strategy for 2017-2020. (2017). Available <http://www.onpcsb.ro/pdf/STRATEGIA%20OPERATION%20ALA%20A%20ONPCSB%202017-2020%20ROMANA.pdf>. [Accessed May 1st 2017].
4. Realuyo, C. (2004). Building a Counterterrorist Finance Regime. *Economic Perspectives*, September 2004, E-Journal USA. 10-13.