

INTERNATIONAL LAW REGARDING NATIONAL SECURITY OF CITIZENS AND NON-SIMETRICAL RISKS

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Abstract:

International law regarding national security of citizens. Point of view regarding the non-symmetrical risks.

Keywords: *security, weapons of mass destruction, proliferation, nuke, control regime*

1. The national/international security environment

The Romanian National Security Strategy contains options of security for public administration:

- national security;
- international security.

National security concerns both the security of the citizens and public security, boarding security, energy, transport, deliveries of vital resources security, critical infrastructure protection.

Structurally, national security involves societal security and law security, counter-terrorism and fighting against criminal organizations, financial transfers security, informatical security, communications systems security, protection against disasters, ambient environment protection.

International security of citizens must be approached from the point of view of the newest threats on the universe map (terrorism, weapons of mass destruction), but also from the perspective of our country strategically distinguished profile between NATO and EU.

From this point of view, we appreciate as the best definition for international security is: “a system built from the dynamical interaction of several factors, like: geographical bounds, with various levels of permeability; state-state interactions, regarded both from perspective of internal development and external behaviour; international system, on the aspect of power distribution and constraint that it puts on a country.”¹

Systemic nature of international security environment goes to the next conclusions:²

- security of one country depends of other countries, and for that reason we can talk much more of international security, instead of national security;
- no country has total control of its own;
- security environment of each state represents the product of its dynamical interaction with other states and not only the product of external factors, which goes to the conclusion that each state builds his own security environment. In this way, international arrangements/ organizations where this state is a part, represent an option of building his immediate security environment;

¹ Cf. Shiping Tang, A Systemic Theory of the Security Environment, The Journal of Strategic Studies, vol. 27, no. 1, 2004

² idem

- in order to apply them, security strategies need to consider all environmental factors and their interactions;

- stability or fragility of international security environment as a system, together represent permanent components, because of impact of changes of some dimension (which can be limited or amplified by the system), but as an effect of the permanent influence (made deliberately or not) of states upon their security environment, influence that can produce stabilization or environment transformation;

- total autonomy of one state in matter of security is not possible, because each political option can be an impediment or can block another one in future (with no intention of that). By this, the system equilibrium works as permanent "transactions".

One thing is for sure: "With the globalization grows the need of international laws (...) and even more, globalization should go hand to hand with a better coordination of national politics between sovereign states (...) and a better collaboration inside international organizations, a strength of this collaboration in sense of better mobility and efficiency. The answer upon globalization mustn't be searched into a big supranational or even global state, but in an effort of cohesion of national states."³

New risks and threats at global security imposed modifications and adaptations from national and international law enforcement (intelligence, security services, defence organisms etc.).

Trans-boarder threats are even more unconventional: human traffic, weapons traffic, drugs traffic; electronic-financial fraud, human migration; proliferation of weapons of mass destruction and missiles.

This phenomenon imposed initiation of a legislative process focused on prevention and discouraging statal or nonstatal actors involved in activities against global security.

2. Weapons of mass destruction

Weapons of mass destruction are the serious threat to global security.

Concept

International legislation does not have a definition for weapons of mass destruction (WMD) as a whole, but there are laws and international treaties for each category of WMD.

The most used definition includes nuclear, biological, chemical and, din lately, radiological weapons and UNSCR 1540 for preventing proliferation proliferării of WMD reffers at „nuclear, chemical and biological weapons and also their launching materials”.

In the USA legislation we find WMD definitions:

- 50 USC 2302: „...any weapon or device having destination or capacity to cause death or bad hurm of a large amount of people by releasing ... toxic chemical or poison substances, an organism causing desease, or radiation or radioactivity”.

- 18 USC, Chapter 2332a: „any destroying device (including) any explosive, fire or toxic gas, bomb, grenade, rocket, having a propellant charge more than 110 grammes, rocket with explosive or fire charge upon 7 grammes or mine or device simmilary to the others from above”; „any weapon or device with destination or cappacity of causing death or bad hurm of a large amount of peole by releasing ...toxic chemical poison substances”; „any gun involving an agent, a toxine or a biological vector”; „any gun conceived to emit radiations or radioactivity at a dangerous level for life”.

Causes

In spite different relevant treaties, there still are countries which look for WMD. Those countries appear to be motivated by an inequal perception of power in their region,

³ Ulrich Beck, What is globalisation?, Trei Editure, Bucharest, 1997

especially where they are involved Middle east countries, North Africa, South and South-East Asia. Not all the countries from these regions are parties to nonproliferation treaties, aspect that made them, in the context of eventual regional conflicts to engage themselves in developing WMD.

Aspects with conduct to developing WMD:

a) International/ regional preoccupations:

- discouraging hostile neighbourhoods;
- necessity to take complicate decisions during crisis.

b) Low cost:

- especially for biological/ chemical war.

c) Attractive for terrorists:

- superior arms;
- the fact they can cause mass losts, economical and psihological losts.

Case study: Iran

Iran is a member of all non-proliferation treaties for nuclear, chemical and biological weapons. In spite of that, there are suspicions that Iran works at a nuclear weapons program.

In 1998, 2000, 2007 and 2009, Iran tested missiles with range of 1500 km, tests considered by local press a succes.

Each time, Iran announced building a civil nuclear program.

Now, nuclear program developed by Iran is upon international sanctions, the most important being UNSCR no. 1747/2007 and no. 1803/2008, against some entities from this state.

3. National and international legislation:

From the international juridical point of view, we appreciate as of special interest **The Strategic Concept of NATO** (voted in 1999, modified) and **European Security Strategy**, voted in December 2003.

A comparative approach of the two named documents shows as security threats:⁴

NATO:	UE:
- global terrorism;	- terrorism;
- proliferation of weapons of mass destruction and of conventional sophisticated weapons;	- proliferation of weapons of mass destruction;
- impact of new technologies;	- regional conflicts;
- instability;	- state failure;
- organized crime;	- organized crime;
- radical ideologies;	
- vulnerability of important informatical systems.	

⁴ Ion Duvac, Political decision and national security, course study, Bucharest 2005

“Proliferation of weapons of mass destruction is probably the biggest threat of our security. International Treaties and control regime of exports, international arrangements in this field slowed down the spread of weapons of mass destruction and delivery systems. We are crossing, anyway, today, a new and dangerous period, that grow the opportunity of a raise for weapons of mass destruction, especially in the Middle East.⁵

The analysis of the two documents show the fact that European states know their own vulnerabilities after events of September 11, 2001 in USA and took these events as a threat upon not only one state, but to global security.

If in USA the events of 2001 generated the apparition of the controverted legislative document Patriot Act (October 26, 2001) and of Department of Homeland Security, in Europe also appeared some replicates of this.

Regarding Romania, our country responded to modern security threats by participating as active member of new born international organisms:

- SECI Center (Southeast European Cooperative Initiative) set on Bucharest, involves as members 13 states from south-east of Europe and its main fight is against transborder organized criminality, especially under the aspect of human traffic and illegal migration. Inside SECI, regional organization, works permanent consultants from INTERPOL and Customs International Organization, but also international observers (including USA ones – representing FBI);

- South East Europe Intelligence Conference (SEEIC)⁶, created in May 23, 2002, at the initiative of secret services from Romania, Greece and Turkey, with the main objectif operational cooperation in order to prevent and combat the extremist-terrorist activities, weapons and drugs traffic, illegal migration, economical-financial criminality. At the beginning they were 13 intelligence members from Albania, Bulgaria, Croatia, FYROM⁷, Greece, Serbia, Slovenia, Turkey and Romania, and later intelligence members from Montenegro and Hungary.

International Conventions and control organisms:

- The Treaty for nonproliferation of nuclear weapons – signed in 1968;
- The Convention for nonproliferation of chemical weapons – signed in 1993;
- The Australia Group – controls exports of chemical and biological weapons, Romania is a member since 1995;
- Nuclear Suppliers Group – offers consultancy in matters of nuclear products and related technologies suppliers; Romania is a member;
- Wassenaar Arrangement – regards export control for conventional weapons, double use products and technologies; Romania is founder member – in 1996;
- Missile Technologies Control Regime (MTCR) – coordinate national exports licensed in matter of ballistic missiles;
- Zangger Committee – promote the Treaty for Nuclear Nonproliferation – Romania is member.

National legislation:

- Law no. 678/2001 regarding prevent and combat human traffic;
- Law no. 535/ 2004 regarding prevent and combat terrorism;

⁵ European Security Strategy – A secure Europe in a Better World – december 2003 (our translation from English)

⁶ Gheorghe Fulga, Rol and strategical vision of SIE in initiating „South East Europe Intelligence Conference (SEEIC), site of BISA, 2005

⁷ Former Yugoslav Republic of Macedonia

- OUG no. 158/1999 regarding the control regime for export, import and other operations with military products, approved with modifications and competations by Law no. 595/2004;

- H.G. no. 844/2001 regarding weapons, ammunitions and other military products export and import control list;

- O.U.G. no. 129/2006, regarding control regime of exports for products and technologies with dual use, approved by Law no. 136/2007;

- Law no. 111/1996, regarding safe doing, reglementation, authorization and control of nuclear activities.

Romania signed in 2002 the International Behaviour Code against ballistic missiles proliferation (the Haga Code).

In our country functions the National Agency of Export Control (ANCEX), under the Ministry of Foreign Affairs and responsible to apply the law regarding export control. The same, National Commission for Nuclear Activities Control (CNCAN) is the National Authority in nuclear domain, under Law no. 111/1996 regarding nuclear activities, with updates.

In conclusion, in our days, marked by terrorist attacks, by war, the need to be secure is a « must have » and the art of surviving attacks, creating a competitive security strategy, an efficient institutional and judicial system are requirements of our present.