

Terrorism and Cultural Identity in Public International Law¹

Marcin Lech

Ph.D., researcher and lecturer at the National Austrian Defence Academy of the Republic of Austria in Vienna and at the Faculty of Law and Administration of the University of Gdańsk
<https://orcid.org/0000-0001-6494-6813>; e-mail: marcin.lech2@wp.pl

*For the first time in history we live in a century when
it is easier to kill a million people than rule a million people.*

Professor Zbigniew Brzeziński²

Introduction

The problem of putting the contemporary international public law into the right place in the fight against international terrorism is a great challenge and really multifaceted issue. Nowadays, international terrorism has attracted attention of international law scholars for many decades.³ The hitherto efforts made especially

¹ This is an expanded version of my lecture, delivered during the 14th United Nations Congress on Crime Prevention and Criminal Justice at the ancillary meeting *Teaching the UN Sustainable Development Criminology in the Era of Climate Change and Respect for Cultural Identities*, Kyoto, Japan, on 9th March 2021.

² An excerpt from Professor Zbigniew Brzeziński's lecture and discussion entitled 'Forecast for the World' given in Gdańsk on 1st October 2007.

³ B. Krzan, *The UN Security Council and international terrorism*, "Polish Yearbook of International Law" 2020, vol. XL, p. 79; S. Wojciechowski, A.K. Siadkowski, *Understanding Contemporary Terrorism and Counterterrorism*, Dąbrowa Górnicza 2014; A. Bianchi, *Security Council's anti-terror resolutions and their implementation by Member States*, "Journal of International Justice" 2006, vol. 4, no. 5, pp. 1044–1073; N. Chomsky, *International*

within the United Nations (UN) to define and combat terrorism have a quite long history but nevertheless have been of rather limited effectiveness.⁴ The arguments put forward in this article concern main issues: the significance of international terrorism and the role of cultural identity for public international law, which have a huge importance for the complex international security architecture. Contemporary guarantees of international security are defined by development and activity of anti-terrorist coalition members.⁵ They hold the dominant position among the values and interests of different states, deciding on their international existence. The range of values safeguarded by international law with the multiplicity of factors and broad perspectives⁶ ensuring preservation of these values, are crucial for international security. In this way, the international security is a synthesis of vital interests of numerous states in combating terrorism taking into account the notion of cultural identity and cultural diversity.⁷

Terrorism: Image and Reality [in:] *Western State Terrorism*, A. George (ed.), London 2011, <http://www.chomsky.info/articles/199112-02.htm>, access date: 1.02.2023. S.S. Costigan, D. Gold (eds.), *Terroronomics*, New York 2007; R. Higgins, *The general international law of terrorism* [in:] *Terrorism and international law*, R. Higgins, M. Flory (eds.) London 1997, pp. 14–18; I. Shapiro, *Containment: rebuilding strategy against global terror*, Princeton 2007; J. Symonides, *Prawnomiędzynarodowe aspekty walki z międzynarodowym terroryzmem*, „Sprawy Międzynarodowe” 2001, nr 4, pp. 23–41; G. Tham, *Terrorismus. Ein Handbuch über Täter und Opfer*, Hilden 2002; Y. Rönen, *Incitement to Terrorist Acts and International Law*, „Leiden Journal of International Law” 2010, vol. 23, Issue 3, pp. 645–674; C. Mühlhausen, J. Baker McNeill, *Terror trends: 40 years’ Data on International and Domestic Terrorism*; <http://www.heritage.org/research/reports/2011/terror-trends-40-years-data-on-international-terrorism/>, access date: 23.01.2023; P. Michlewicz, K. Kubiak (eds.), *From total war to war against terrorism*, Wrocław 2007.

⁴ B. Krzan, *The UN Security Council...*, op. cit., p. 79; M. Lech, *The United Nations in the fight against terrorism – international legal and criminal aspects*, „Studia Europejskie” 2008, vol. XVII, pp. 147–170; See also: M. Lech, *New security strategies and development of international cooperation against terrorism in the light of the legal order of the United Nations*, „The Polish Journal of Criminology,” 2015, vol. 1, <http://www.pjoc.pl>, DOI: 10.5604/1208589, pp. 13–35.

⁵ M. Lech, *Ochrona prawna społeczności międzynarodowej wobec zagrożenia terroryzmem - studium międzynarodowego prawa antyterrorystycznego*, Gdańsk 2014. Also this issue is much broader analysed in the following study: M. Lech, *Legal and strategic aspects of control of armed forces in frames of the complex international security architecture*, „Österreichische Militärische Zeitschrift,” Online publication 2021, https://www.oemz-online.at/OeMZ_00_Lech_202107, access date: 23.01.2023.

⁶ A. Balthasar, P. Ertl, G. Fleck, M. Lech (eds.), *Internationale Perspektiven im 21. Jahrhundert, Recht, Politik, Gesellschaft*, Festschrift der Landesverteidigungsakademie Wien, anlässlich des 55. Jubiläums der Landesverteidigungsakademie Wien, Wien 2022.

⁷ M. Lech, *An Academic Perspective of International Law and International Relations as a New Interdisciplinary Scholarship – Selected Issues*, 5/2013/ S Sonderpublikation der Landesverteidigungsakademie, Special Edition, Wien 2013, pp. 13–16 and 85–99.

Contemporary terrorism is indeed an extremely dangerous phenomenon which involves use of violence by individuals, ethnic groups and criminal organizations representing different cultural identities in order to achieve numerous political, social and economic goals.⁸ This has a destructive influence on the contemporary international society and finally on international security. The influence of such destructive terrorist attacks results in growing number of threats, while internationalization of terrorist acts has consequently and inevitably brought the mankind into the era of terrorism.⁹ The scale of widespread international threat makes the states perceive their security criteria from the perspective of their own defensive potential, including the nuclear one.¹⁰

Having established security criteria one can see a catalogue of potential threats which need to be faced by national bodies, and which have been mentioned in contemporary security strategies. In this light, it is necessary always to explore the role of identity in religious- and ethnicity-based terrorism and terrorist movements. Especially religious beliefs and influence of cultural identity are safeguarded by all legal acts concerning conflicts, regardless of their character – international or internal. Each direct ‘violent action’, such as terror, aggression and violence, as well as destructive nationalism, leads to historical crisis. Terrorism is a multifaceted phenomenon, thus no single theoretical perspective can provide an all-encompassing “explanation” of terrorism.¹¹ Therefore, it is important to advance theories that can explain some aspects or forms of terrorism.

The notion of ‘international relations’ used so far has ceased to be a satisfying security paradigm of research on the events of the contemporary world. Thus, the paradigm of international security and the concepts which are supposed to ensure it have been changing. The evolution in the aspect of international security takes place together with the development of paradigms. Fixed paradigm¹² has been so far a factor determining attitudes of the countries and their decisions. Therefore, today

⁸ B. Hoffman, *Oblicza terroryzmu*, Warszawa 2001, pp. 11–22.

⁹ M. Szewczak, *Zwalczanie struktur finansujących terroryzm*, „Roczniki Nauk Prawnych” 2006, vol. XVI, nr 1, p. 395.

¹⁰ J. Ciecchanowicz-McLean, *Terroryzm jądrowy w prawie międzynarodowym* [in:] *Prawo międzynarodowe. Księga pamiątkowa prof. Renaty Szafarz*, J. Menkes (ed.), Warszawa 2007, pp. 96–107. W. Stankiewicz, *Współczesne koncepcje bezpieczeństwa międzynarodowego na tle problemu rozprzestrzeniania broni jądrowej*, „Polski Przegląd Dyplomatyczny” 2003, vol. 3, nr 5 (15), p. 77.

¹¹ A. Merari, N. Friedland, *Social Psychological Aspects of Political Terrorism*, “Applied Social Psychology Annual” 1985, vol. 6, pp. 185–205.

¹² A paradigm – a set of coherent, logical and, in terms of content, organized views, whose consequence is method of understanding the reality; M. Pietraś, *Pozimnowojenny paradygmat bezpieczeństwa in statu nascendi*, „Sprawy Międzynarodowe” 1997, 2, p. 29.

the challenge is to establish strong, stable and organized international environment with much more efficiently functioning mechanism to regulate international law resolving fight against terrorism. It will play a crucial role in the further evolution of the international security paradigm. Unfortunately, experience of contemporary international relations dealing with terrorism indicates there are still significant problems in ensuring security, therefore also for evolution of international security paradigm. This threat has become a fundamental challenge to the contemporary international society which accepts international legal standards, mainly established by the UN. This biggest universal international organization constitutes complex legal guides for combating terrorism through international public law taking into account cultural identity in the broad context of international security architecture.

1. Perception of terrorism in the context of main problems arising from cultural identity for international security

Contemporary perception of terrorism in the context of main problems arising from cultural identity issues for international security, is strictly connected with development of the globalized world. No country can remain indifferent to the fight against terrorism. The end of the 90s in the 20th century brought about uncontrolled explosion of Islamic terrorism, resulting in permanent attacks of terrorist organizations connected with Islamic fundamentalism.¹³ This phenomenon, and the situation in which international society is forced to face today, is rooted in a generational conflict existing for 25 years in Muslim world. Islam and all challenges and threats originated from the globalization process have met together. That is to say, tradition had to face the Western modernity and it led to the globalization of Islam, which, unfortunately, has started to turn into radical Islamism. Terrorists who created the worldwide terrorist organization Al-Qaeda belonged to the generation of Muslim volunteers who had fought in the 80s in the 20th century in Afghanistan. Then they grew up in Europe and at the moment they are struggling with the problem of finding their own motherland. They do not think in terms of territorial war but believe in the brotherhood of religion and establishing a global community of the faithful. Internationalization of Jihad is also an effect of globalization process. In this light M. Ingelevič-Citak and Z. Przybylak pay also a great attention to the European Union counter-terrorism implemented measures developed and implemented within the European Union. These eminent authors generally state that the “focus on the counter-terrorism measures developed and implemented within the

¹³ M. Lech, *Ochrona prawna społeczności...*, pp. 21–68.

European Union have a universal character and are equally effective in the context of various types of terrorism (...) the strategies applicable to the terrorist activities online, since information and communication technology is perceived as the fastest growing and continually changing field of the terrorist threat (...)”¹⁴ Whoever believes in any effective political or diplomatic method of a war on Islamic terror, does not understand this phenomenon.

However, the September 11, 2001 attack on World Trade Center in New York was not only the clash between Western and Islamic civilization.¹⁵ Of course, this incident was recognized rightly and universally as one of the greatest threats to international security of the whole system – both international and concerning individual states. It was mainly the result of anti-American and anti-Western political programmes to be found in the overwhelming majority of the most active contemporary terrorist groups – of the countries of the developed West. This attack, generally referred to as ‘megaterrorist’, drew attention to the process of transformation – from the modern world system to postmodern system – which had been taking place for a long time.

In this light, international terrorism shows a multifaceted significance, representing the confluence of a cultural identity.¹⁶ As E. Osborne and R. Sablonniere defines it, this “identity is a part of a person’s identity, or their self-conception and self-perception and is related nationality, ethnicity, religion, social class, generation, locality or any kind of social group that has its own distinct culture. In this way, cultural identity is both characteristic of the individual but also of the culturally identical group of members sharing the same cultural identity or upbringing. Cultural identity is a fluid process that is changed by different social, cultural, and historical experiences. Some people undergo more cultural identity changes as opposed to others, those who change less often have a clear cultural identity. This means that they have a dynamic yet stable integration of their culture.”¹⁷

Characterizing the cultural identity in the broader context in frames of identity theory perspective, S.J. Schwartz, C.S. Dunkel and A.S. Waterman emphasize that „cultural identity is strongly based in collectivism and in fundamentalist

¹⁴ M. Ingelevič-Citak, Z. Przyszlak, *Jihadist, Far—Right and Far-Left Terrorism in Cyberspace – Same Threat and Same Countermeasures?*, „International Comparative Jurisprudence” 2020, vol. 6, issue 2, p. 154.

¹⁵ S. Huntington, *Zderzenie cywilizacji*, Warszawa 1997, p. 2.

¹⁶ S.J. Schwartz, C. S. Dunkel, A.S. Waterman, *Terrorism: An Identity Theory Perspective*, „Studies in Conflict & Terrorism, 2009, vol. 32, pp. 537–538.

¹⁷ E. Osborne, R. Sablonniere, *Understanding My Culture Means Understanding Myself: The Function of Cultural Identity Clarity for Personal Identity Clarity and Personal Psychological Well-Being*, „Journal for the Theory of Social Behaviour” 2014, vol. 44 (4), p. 436.

adherence to religious or cultural principles. A social identity is based in sharp contrasts between one's own group and groups perceived as threats and a fore-closed and authorization sense of personal identity or, less often, a diffused and aimless personal identity. Terrorism is defined as the deliberative targeting of civilian sites for attacks designed to result in destruction of those sites and/ or the injury and death of noncombatant civilians. It can be seen clearly in terrorism carried out by native insurgent groups as part of a religious and/ or ethnic conflict within a nation and terrorism carried out by international groups seeking to influence the outcome of such conflicts or to wage their own terror campaigns for the purpose of influencing geopolitical conditions more broadly. Therefore, state-sponsored terrorism carried out by agents of a national government and terrorist attacks that are the work of isolated individuals unaffiliated with religious and/ or ethnic groups or movements.¹⁸

From the other hand, it is necessary to remember that all nations with their different cultural identities, creating indeed cultural diversity, are no longer the only, and in some fields of politics even the dominant, political actor. The political decisions – bilateral or made in a group of numerous states – are no longer the ground on which the international society finds agreement.¹⁹ Furthermore, the struggle against terrorism has become a full confirmation of respect for human values. This is very clear of the UNESCO *Universal Declaration on Cultural Diversity* from 2nd of November 2001 states, that, “the defense of cultural diversity is an ethical imperative, inseparable from respect for human dignity. It implies a commitment to human rights and fundamental freedoms, in particular the rights of persons belonging to minorities and those of indigenous peoples.”²⁰

Nowadays no state is able to stand up to this global problem without any support. Globalization and facing the struggle against terrorism, has also become obvious.²¹ In this light there are some postulates to combat terrorism through culture. They are related to the process of globalization and the information society which allow unprecedented contact and interaction between peoples, ideas and cultures. Some aspects of it can potentially foster terrorism and the ideologies. Then, culture is, however, also becoming increasingly a target of terrorism.

¹⁸ S.J. Schwartz, C.S. Dunkel, A.S. Waterman, *Terrorism: An Identity Theory Perspective...*, op. cit., p. 537.

¹⁹ H.H. Nolte, *Unia Europejska w nowoczesnym systemie światowym*, „Polski Przegląd Dyplomatyczny” 2002, t. 2, nr 4 (8), p. 15.

²⁰ *Universal Declaration on Cultural Diversity*, November 2, 2001, UNESCO, Official Record of General Conference, 31 Session, art. 4.

²¹ M. Lech, *Ochrona prawna społeczności międzynarodowej...*, pp. 21–68.

The basis for any cultural action against terrorism lies in understanding the complex and delicate relationship between terrorism and its cultural context.²²

In the light of this analysis, the word 'terrorism' is related to the notion of 'terror' and its general meaning is a risk of unknown origin, evoking fear and threat²³. Terrorism is a phenomenon existing permanently and occurring everywhere, but usually locally or regionally, referring to interethnic, interstate or regional relations. At present we mostly deal with transnational terrorism (TnT), which is phenomenon of a different scale, as it refers to international system, whereas the question is how to minimize the number of its sources and, simultaneously, prevent and eliminate it directly²⁴.

Thus, one of the main origins of TnT is so called cumulated effect:

- 1) Unequal social development in the international system;
- 2) Exceptional co-existence of religious and state order, and following conflicts, among Islamic believers;
- 3) The Arab-Israeli conflict in the Middle East.²⁵

The most difficult task concerning the transnational terrorism (TnT) consists of three challenges:

- 1) Harmonization of measures leading to enfeeblement of structural TnT origins in the form of local conflicts, and of measures of direct fight against TnT, as taking action to enfeeble these structural origins may require creating a system of centralized development regulation in the scale of the international system;
- 2) Solving conflicts requiring a new type of participation of factors of a foreign state in the territory of states in conflict;
- 3) Direct fight against TnT²⁶.

International terrorism became the biggest threat for international security architecture. Therefore, contemporary international security can no longer be understood only as relations between states. The proper understanding of security, which used to be an equivalent of development and power growth of individual states for many years, has also changed. This issue deals with new affairs

²² Parliamentary Assembly of the Council of Europe, Recommendation 1687 (2004), Doc. 10341, *Report of the Committee on Culture, Science and education*. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 23 November 2004, <https://pace.coe.int>, access date: 12.02.2023.

²³ G. Guillaume, *Terrorism and international law*, "International and Comparative Law Quarterly" 2004, vol. 53, p. 537.

²⁴ R. Stemplowski, *Transnarodowa harmonizacja bezpieczeństwa i rozwoju ograniczy transnarodowy terroryzm*, „Polski Przegląd Dyplomatyczny” 2001, vol. 1, nr 3 (3), p. 5.

²⁵ *Ibidem*, p. 6.

²⁶ *Ibidem*, p. 8.

of the states, sources and the essence of risks, as well as the general evolution of a complex international environment. This is related also to the fact that non-state subjects are becoming widely accepted participants of international relations and elements of security. Thus, an independent state is regarded as the basic subject. Non-state subjects constitute both a source of risks and a factor stabilizing and stimulating the development of supranational co-operation of the states.

The division into national security, which is related to the internal state of a country, and international security is well-known in the literature concerning terrorism. Taking into account the community of states and other subjects of international law, this is conventional, because it fails to include issues bound up with one another, involving correlation between security of one country and the international society. Besides, security, as an overriding need of the states and international systems, in light of terrorism, is no more understood only in the aspect of power. This notion covers standards, mechanisms and conditions which provide subjects of international relations with the sense of security and the opportunity of harmonious development without arbitrary pressure from the outside. After all, the phenomenon of international terrorism poses a huge risk to the security of the mankind and entails devastation of its development. Therefore, it seems justified to create political consciousness, common grounds for national and social agreement as indispensable projects of democratic life.

2. Terrorism as a category of international law in the complex international security architecture

Contemporary mutual relations between terrorism and international law, taking into account main problems arising from cultural identity, are strictly connected with the issue of international terrorism as a category of international law.

Assuming that terrorism is a legal category, especially concerning international law; together with/just as strategy of using political violence, having negative effect on the stability of international system and on destruction of contemporary international society, four fundamental questions in order to characterize this phenomenon arise:

- 1) What is terrorism from the legal point of view (especially regarding international law)?
- 2) Has the science/international law studies offered a widely accepted definition of terrorism?
- 3) Has international law established specific measures of prevention and judgment of terrorist acts?

4) Does international law provide adequate mechanisms of violence against the countries which support terrorism?²⁷

In this situation it is essential to analyze the phenomenon of terrorism considering relations between international law and international security.²⁸ The condition of international security can be deeply examined according to the criterion of the state of control of security, and through it – the international law. Nowadays numerous problems, such as ethnic conflicts, cannot be solved with force or threats of using it. The ban on using force is one of the most important regulations of the international law and is an unquestionably binding norm *ius cogens*. This rule is expressed in the resolution of the General Assembly of the UN of 24th October 1970²⁹.

All instruments and methods used to ensure international security evolve together with changing threats and the range of values safeguarded by international law taking into account culture identity and diversity. In such conditions, specified criteria would refer to state bodies, and through them, to other subjects of the international law, which would act to create the other criteria. Such an evolution can even cause radical change in the international law, especially common law. That is why clear practice of enacting and implementation the international law, defined constant *opinio iuris*, is required. In this regard, also the debate about the law concerning the fight with terrorism conducted mainly by prominent international scholars A. Bianchi, A. Roberts and M. Walzer and first of all by Polish scholars, who analyze this complex issue in a very interesting way, such as for example M. Kowalski (discussing all the dilemmas and challenges of *jus ad bellum* regulation and the UN Charter regime in all its ambiguity) or A. Kleczkowska (presenting self-defense and state's responsibility for internationally wrongful acts, as alternative legal means, which can be used by states facing the threat for their security), which indeed includes some essential requirements of the law of war, is expanding today.³⁰ In this context, for example, when analyzed broadly, the triple notion *jus ad*

²⁷ G. Guillaume, *Terrorism...*, p. 537. S. Pikulski, *Prawne środki zwalczania terroryzmu*, Olsztyn 2000, pp. 12–13.

²⁸ M. Lech, *Legal aspects of international security in the era of radicalization, extremism and international terrorism* [in:] *Schriften zu Radikalisierung, Extremismus und Terrorismus, Organisation, Denken, Recht*, Band 1, P.G. Ertl, G. Fleck (eds.), "Schriftenreihe der Landesverteidigungsakademie" 2013, nr 16, pp. 69–110. See also: M. Lech, *Terroryzm a prawo międzynarodowe*, [in:] *Ewolucja terroryzmu na przełomie XX i XXI wieku*, M. Malinowski, R. Ożarowski, W. Grabowski (eds.), Gdańsk 2009, pp. 546–560.

²⁹ W. Stankiewicz, *Współczesne koncepcje...*, op. cit., p. 78.

³⁰ M. Kowalski, *Some Remarks on the Relation of the Jus as Bellum Regulations under the UN Charter and customary International Law – Why Does It Matter so Much?*, "Wrocław Review of Law, Administration and Economics" 2018, vol. 8 (2), pp. 112–126; A. Kleczkowska,

bellum – jus in bello – jus post bellum appears as a new concept of the modern law of armed conflict.³¹

Therefore, it seems justified to assume that the state's international security is a part of the prescriptive function of the condition of state's security and of the implementation of the international law standards. Thus, regulations concerning the public international law studies constitute the basis of creating of a new criteria of state's international security and in this way, the security of international society. Following criteria of the international security will refer to specific standards and their implementation³².

Despite seemingly precise and defined criteria of relation between security and the international law and the analysis of threats of the contemporary international system, international society has not been able to reach an agreement on the definition of terrorism. Differences of opinions between the countries resulted in the fact that no unified definition of terrorism has been offered, as this phenomenon is very difficult to define. Nevertheless, all the countries have only a very general view of terrorism as a form of fight in which victims are not chosen individually and a terrorist attack has symbolic effect. This attack is not aimed at the elimination of individual victims, but terror expansion within the group which the victims belong to. All universal international legal instruments, enacted and established under the auspices of the UN or specialized agencies, have had one common aim: to find the answer to internationalization of terrorism through internationalization of repressive measures. However, no definition of terrorism has been established, only the way it works. Professor Levitt, who is an outstanding researcher of this discipline, compared the struggle to find it to the quest for the Holy Grail.³³

Reakcja państwa na napaść zbrojna ze strony aktora niepaństwowego – uwagi na przykładzie doktryny unwilling or unable, „Problemy Współczesnego Prawa Międzynarodowego Europejskiego i Porównawczego” 2015, nr 13, pp. 77–98. A. Roberts, *The Laws of War in the War on Terror*, „International Law Studies” 2003, vol. 79, pp. 175–230; A. Bianchi, *Terrorism and Armed Conflict: Insights from a Law & Literature Perspective*, „Leiden Journal of International Law” 2011, vol. 24 (1), pp. 1–21; M. Walzer, *Terrorism and Just War*, „Philosophia” 2006, vol. 34, nr 1, pp. 3–12.

³¹ C. Stahn, *Jus ad bellum, jus in bello... jus post bellum? – Rethinking the Conception of the Law of Armed Force*, „The European Journal of International Law,” 2007, vol. 17, Issue 5, pp. 921–943. M. Lech, *Modern jus post bellum – Finding a New Branch of International Justice and Law*, „Polish Review of International and European Law” 2020, vol. 9, Issue 2, pp. 9–38. This issue will be also broadly presented in my newest book currently to be published. See: M. Lech, *Koncepcja jus post bellum w prawie międzynarodowym*, Gdańsk 2023.

³² M. Lech, *Security of the Republic of Poland in the context of international anti-terrorist regulations*, „Gdańskie Studia Międzynarodowe” 2015, vol. 13, nr 1–2, pp. 45–64.

³³ J. Barcik, *Koncepcja samoobrony w prawie międzynarodowym w dobie „wojnie z terroryzmem”*, „Kwartalnik Prawa Publicznego” 2003, nr 1, p. 101; A. Clark Arend, R.J. Beck (eds.),

According to Judge Lady R. Higgins, an outstanding British lawyer, "terrorism is a notion devoid of any legal importance. It is an effective way of performing certain commonly unacceptable acts, whose methods are illegally used."³⁴

In such a case, it would be not necessary to look for the answers to the questions above indirectly in the science of international law. First of all, the essence of the phenomenon of terrorism should be analyzed, as it influences the formation of the contemporary international system and relation between international security and international law as well.

3. The United Nations in combating international terrorism

Today it is the UN that plays the most important role in the creation of international legal acts concerning fight against terrorism. The UN is the only and the greatest universal international organization in the world. Fighting against terrorism is an intrinsic part of the mandate of this subject of the international law. Therefore, in such an analysis it is essential to make reference to the legal acts of the United Nations introduced as a result of the reaction of the international community to the ensuing situations. They were brought about by terrorist attacks in the world and to the Charter of the United Nations, called usually a 'Constitution of International Law.'

As to the Charter of the UN, in terms of legal regulations on terrorism and methods of its combating, it should be noticed the first mentions of international security, international law and threat issues in the Article 1 of the Charter, in which fundamental aims of the United Nations are described. They are: maintaining international security by using effective collective measures for prevention of threats to peace and their elimination, suppressing all acts of aggression and other cases of peace disturbance, resolving or solving in a peaceful way, following the provisions of justice and international law, conflicts or international situations that might lead to peace disturbance.³⁵

The appropriate article of the Charter, regulating issues indirectly connected to terrorism and referring to an armed attack against a Member of the UN and related right of individual or collective self-defense, is the Article 51 of the Chapter VII of the Charter of the UN. The regulation of this Article guarantees the right of collective self-defense. Meanwhile, the right of self-defense derives from the international

International law and the use of force. Beyond the UN Charter paradigm, London–New York 1993, p. 140.

³⁴ R. Higgins, *The general international Law of terrorism...*, op. cit., p. 28.

³⁵ *Charter of United Nations*, New York 2004, p. 1.

customary law. The lawfulness of self-defense is aptly conveyed in the Latin *paremia vim vi repellere omnia iura permittunt*, meaning: ‘all laws give permission to defend with force against force.’³⁶ Article 51 of the *inherent right* Charter confirmed the customary nature of this statement, describing it as an *inherent right*. According to the authors of the Charter, the right to self-defense could be exercised only in case of an armed attack of a state-aggressor. But Article 51 of the Charter has nothing to say on the issue of terrorism. Thus, according to this Article, can the right of self-defense be exercised against terrorist organizations and their members? Customary law allows to answer this question positively. Unfortunately, although the right of self-defense is a generally accepted and unquestionable right of the states, its scope and conditions under which it can be realized, belong to questions vehemently discussed within the issue of international law. It mainly refers to the assessment of anti-terrorist actions taken with reference to Article 51; and, strictly speaking, to the self-defense.³⁷ What evokes doubts is the expression ‘the armed attack’ from Article 51 of the Charter of the UN, but also the question of what should be the features of a terrorist attack to let it be qualified as the armed attack when self-defense is allowed. The armed attack is often identified with aggression, which is not so obvious, because the Charter of the UN uses both expressions without their definitions. Nevertheless, one may assume that the armed attack is a form of aggression. That is why people who conduct research in this field ask all kinds of questions, the study of customary international law answers positively and considers the terrorist attack to be the armed attack. Nonetheless, following questions still arise. The first is: can the attacks on the World Trade Center be considered as the armed attack? The second: can the right of self-defense, reserved to the states, be exercised against the perpetrators of terrorist attacks? The third: does the state-victim of an attack, exercising the right of self-defense, have to obey the conditions of lawfulness of this right, included in Article 51 of the Charter of the UN and international customary law? The fourth: is it allowed to use self-defense against the terrorist attack launched on the citizens of a state-victim outside its borders? Finally the fifth: do the states, referring to the threat of terrorist attacks, have the right of preventive self-defense?³⁸

³⁶ In the context of self-defense, see: *Advisory Opinion of the International Court of Justice on the Legal Consequences of the Constructing a Wall in Occupied Palestinian Territory* from 9th of July 2004, <https://icj-cij.org/public/files/case-related/13//13/>; J. Barcik, *Koncepcja...*, pp. 99–100.

³⁷ T. Franck, *Terrorism and the right of Self Defense*, “American Journal of International Law” 2001, nr 95, p. 840; M. Reisman, *In Defense of World Public Order*, “American Journal of International Law” 2001, nr 95, p. 833.

³⁸ G. Abi-Saab, *The Proper Role of International Law in Combating Terrorism*, “Chinese Journal of International Law” 2002, vol. I, nr 1, p. 305. T. Franck, *Terrorism...*, op. cit., pp. 840–841.

The events of the 11th September 2001 led to some agreement at the time of the fight against terrorism. Unfortunately, taking into consideration different interests of the Member States of anti-terrorist coalition, it seems that this agreement is questionable. Thus, we should hope in the possibility of working out clear regulations on the comprehensive fight against terrorism. Perhaps, along with the planned reform of the UN, some amendments to Article 51 of the UN Charter should be introduced.³⁹

In the context of the international law, it seems obvious that every author of terrorist attacks should be prosecuted. It includes the use of force in comparable circumstances, which can cause, injury, harm or risk to human life, according to the target of a terrorist act. What remains unquestionable: a state-victim of a terrorist attack, while exercising the right of self-defense, according to Article 51 of the Chapter of the UN, must fulfill requirements deciding if the right is lawful or not. Unfortunately, taking into consideration different interests of the Member States of anti-terrorist coalition, especially their perception of cultural identity, it seems that this agreement is questionable. Thus, the possibility of working out much more clear regulations on the comprehensive fight against terrorism are essential. Perhaps, along with the planned reform of the UN, some amendments to Article 51 of the UN Charter should be introduced. There are three conditions to be fulfilled. The first is the committing of defined acts involving violence causing death or serious damage to psychological health. There are certain documents of domestic and international law that provide evidence, concerning a risk to human life which can be caused, among others, by a terrorist act. The second is an individual or group action that is not an improvisation but an organized operation or an arranged plan based on coordinated effort in order to achieve the aim, for example the one that eliminates the situation in which an insane assassin shoots everyone in his or her field of vision. The third are efforts to establish the subject of the case: inspiration of terror among certain persons or groups. Fulfilling these three conditions, the division should be made between the victim, who is going to be hurt by the terrorist, and terrorist's expectations concerning the results of his or her actions, assuming that he or she will be safe.

Kofi Annan, former Secretary-General of the UN, referred to this increasing threat concerning contemporary international society in such a way "Terrorism is aimed at all values for which the UN was established. It poses global threat to democracy, rule of law human rights and stabilization."⁴⁰ Similarly, Antonio

³⁹ J. Barcik, *Koncepcja...*, op. cit., pp. 110–111.

⁴⁰ *Legislative Guide to the Universal anti-terrorism Conventions and Protocols*, the United Nations Office on Drugs and Crime, New York 2004, p. 4; K. Annan, *Meeting the Challenges*

Maria Costa, former Executive Director of the United Nations Office on Drugs and Crime (UNODC), warned “Terrorism today knows no borders and is not aimed at any individual nation or respect for religion. It means action without exceptions.”⁴¹

However, main guidelines of the UN Secretary-General, Kofi Annan, concerning problems of international security had been specified one year earlier, in a report of 2004.⁴² The UN Secretary-General pointed out in his 2004 report four fundamental elements of the definition of terrorism, which should be soon accepted by the UN General Assembly and, thus, granted prescriptive legitimization to create a modern convention concerning terrorism. Firstly, it was underlined that stating in the preamble that the issues concerning using force by a state against civil persons is regulated by the Geneva Conventions and other legal instruments, also when they constitute war crimes or genocide, to suitable extent. Secondly, by terrorism there were understood acts defined in these days (in 2004) in 13 conventions in this time (now 19)⁴³ and anti-terrorist protocols adopted so far, enabling effective combating terrorist acts and due to which indispensable legal regulations have been introduced. Another result was the declaration that these acts are a crime according to the international law, as well as the conclusion that terrorism at the time of an armed conflict is punishable by the Geneva Conventions and defined protocols. Thirdly, making reference to definitions is included in the Convention for the Suppression of the Financing of Terrorism of 1999 and the Security Council Resolution 1566 of 2004. The fourth element is a description of terrorism as “any action, referring to the actions already defined by the conventions, connected with aspects of terrorism, the Geneva Convention and the Security Council Resolution 1566 of 2004, which entail death or serious damage on the body of civil persons and non-veterans, and when the reason for such an act, considering its nature or context, is aimed at posing threat to the mankind or forcing the government or international organizations to achieve a given aim or to refrain from a given act.”⁴⁴

The 2005 World Summit of the UN Member States resulted in passing Resolution 60/1 by the UN General Assembly. In this document heads of states and Prime

of a Changing World – The Annual Report on the Work of the Organization, United Nations, 2006, pp. 42–46.

⁴¹ *Delivering counter-terrorism assistance*, the United Nations Office on Drugs and Crime, New York 2007, p. 1.

⁴² *A more secure world: Our shared responsibility. Report of the Secretary-General's High-level Panel on Threats, Challenges and Change*, United Nations, New York 2004, p. 52.

⁴³ Since 1963, until today, the international community has elaborated 19 international legal instruments to prevent terrorist acts, see: <http://un.org/counterterrorism/international-legal-instruments>, access date 7.02.2023.

⁴⁴ *A more secure world: our shared responsibility...*, p. 52.

Ministers ordered the international society to support the states in the development of national and regional mechanisms to fight against terrorism. The UN Secretary-General referred to the Resolution in his report: '*United against Terrorism*', in which he issued suggestions concerning the global strategy on combating terrorism. Pursuing Resolution 60/288, the UN General Assembly passed *The United Nations Global Counter-Terrorism Strategy*.⁴⁵

On the 8th September 2006 all 192 UN Member States adopted the Global Counter-Terrorism Strategy. For the first time in the history, a common framework on counter-terrorism had been agreed on. The adoption of the Global Counter-Terrorism Strategy is a result of years of efforts, at the same time fulfilling the commitments took by the world leaders at the World Summit of September 2005. Numerous suggestions and recommendations of the UN Secretary-General Kofi Annan were taken into consideration. The Global Counter-Terrorism Strategy was presented at the High-level Panel of the UN General Assembly. This Strategy, in the form of resolution with enclosed Plan of Action, is a legal instrument intensifying the efforts to combat terrorism on the domestic, regional and international level. Adopting the Global Counter-Terrorism Strategy, the Member States for the first time agreed to a comprehensive and comprehensive framework on counter terrorism. Apart from the already mentioned Strategy of the 8th September 2006, one of the most important documents concerning counter terrorism that have lately appeared, is the Report of the UN Secretary-General Kofi Annan of the 27th April 2006 on global counter terrorism strategy. This document is a summary of the previous UN strategic and legal achievements in the fight against terrorism and includes guidelines for the future.

Analyzing the role of the United Nations in the aspect of war on terrorism, it needs to be stated firmly that the greatest contributor to this fight is the United Nations Office on Drugs and Crime, commonly referred to as UNODC located in Vienna, which have for a very long time been working out significant documents of international law, aiming at the fight against terrorism and international cooperation between the states. In 2002, the UN General Assembly accepted a well-developed programme of work of the Terrorism Prevention Branch UNODC. This programme is aimed at supporting the state in legal aspect of terrorism prevention, especially through ratification and implementation of universal legal instruments and enhancing the efficiency of systems of domestic criminal justice and application of such instruments according to the standards of the rule of law. Moreover, the programme of work of the Branch entails real influence in the issues of fighting against terrorism within intergovernmental circles, especially at the UN General

⁴⁵ *Delivering...*, p. 1.

Assembly, the Economic and Social Council and Commission on Crime Prevention and Criminal Justice. It constitutes a contribution to the conferences on crime prevention.⁴⁶

UNODC benefits from offering support in the fight or prevention against terrorism. What especially draws attention is the specialized technical competences in terrorism prevention. This experience concerns international cooperation in criminal issues, especially extradition or legal custody, transnational organized crime, money laundering and corruption. By preventing terrorism, UNODC wants to respond to challenges facing the states, in order to help them prevent terrorism on the basis of existing instruments of international law. This initiative is popularly referred to by the Branch officers as effective legislative initiatives. In this process the UN Anti-Terrorist Conventions plays an important role towards the universal treaty-based model of combating terrorism. In this light, as M. Marcinko point out, for example in “Adopted in Montreal in 2014, the *Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft* is the nineteenth international legal instruments in the *aquis* of the United Nations (‘UN’) and its related organisations devoted to prevention and suppression of terrorism (...), the set of regulatory measures – including, *inter alia*, jurisdictional clauses – constitutes a consistent collection of rules to be applied in cases in the majority of terrorist activities. The (...) model based on the principle of *aut dedere aut judicare* supplemented with a rational control of extradition and jurisdictional issues (...)”⁴⁷ They are therefore aimed at improving legal system against terrorism. The Branch does it constantly through its work, in order to help a given state which becomes the party as far as given legal instruments as concerned, in front of terrorism. It results from the implementation of regulations of specified legal instruments towards the domestic law, through training courses for representatives of criminal justice in order to make them adapt the new law to the domestic system of criminal justice against terrorism.

Nowadays, further effective legislative initiatives offered by the UNODC are going to work. The first fundamental initiative focus on improvement of current work in order to help the states ratify and implement universal legal instruments against terrorism, especially with growing support of domestic systems of criminal

⁴⁶ <http://unodc.org/westandcentralafrica/en/terrorism-prevention.html>, access date: 1.02.2023; <http://unodc.org/unodc/en/terrorism/technical-assistance-tools.html>, access date 7.02. 2023.

⁴⁷ M. Marcinko, *The Evolution of UN Anti-Terrorist Conventions towards the Universal Treaty-Based Model of Combating Terrorism*, “Groningen Journal of International Law: Terrorism and International Law”, 2018, vol. 6, p. 59; <http://unodc.org/rseap/en/resources/terrorism-prevention/index.html>, access date 2.02.2023.

justice by organizing specialized courses. The second is development of new institutions which promote legal cooperation aimed at terrorism prevention, especially on regional and subregional levels, as well as good practice, legal research and academic courses. The third initiative deals with complete integration of all aspects of terrorism prevention in other adequate branches of UNODC. The fourth is concentrated in-depth UNODC expertise on terror prevention and drugs control, and presenting it to the Member States.⁴⁸

An important element of the work of the UNODC is the question of methodology concerning technical support in the implementation of appropriate instruments of international law in combating terrorism. UNODC bases it on five elements. The first element deals with the analysis of domestic legislation on the threat of terrorism. The second identifies legislative requirements, together with appropriate domestic authorities. The third concerns a support in adaptation of domestic law in order to implement legal instruments concerning terrorism. The fourth element links administrative and regulating recommendations indispensable for the implementation of domestic law. The fifth element concentrates on training of criminal justice representatives on implementation of the new law in the international cooperation in criminal cases, including extradition and mutual legal custody.⁴⁹

According to J. P. Laborde, in order to make the fight against terrorism effective, it is necessary to improve the structure of the international law, first of all through fast ratification and implementation of the all UN universal conventions and protocols by the Member States.⁵⁰ In this light the contemporary programme of work of the Terrorism Prevention Branch UNODC is based on four key issues. The first one says that the UNODC supports improvements concerning help to regional and subregional organizations, creating or improving mechanisms aimed at terrorism prevention. The second states that the UNODC encourages to respect its recommendations on technical support for the states, in order to facilitate the implementation of international conventions and protocols referring to terrorism prevention and elimination and related UN resolutions. The third says that the UNODC together with the International Monetary Fund, the World Bank and the Interpol, encourage enhanced cooperation between the states in order to help them obey international standards and commitments to fight with money laundering and financing terrorism. The fourth element is very essential because it states that Member States make a declaration to make every effort for effective development and, based on the rule of law, system of criminal justice, which shall guarantee

⁴⁸ *Legislative...*, p. 56.

⁴⁹ *Legislative...*, p. 71–77.

⁵⁰ J. P. Laborde, *The United Nations and the fight against terrorism: legal and criminal aspects* [in:] *Terrorism, victims and international criminal responsibility*, G. Doucet (ed.), Paris 2003.

that everyone participating in financing, planning, preparation of terrorist acts or who supports such acts, will be prosecuted with all the respect to the human rights and fundamental values. Terrorist acts are perceived as criminal by domestic law and its regulations; moreover, the states that will need support in their development and enhancing effective and based on the rule of law systems of criminal justice can count on technical support UNODC.⁵¹

In the complex legal process of creating new modern international legal instruments dealing with combating international terrorism, Member States focus mainly on agreement with existing system of international anti-terrorist instruments. This agreement always confirms key principles included in current 19 international instruments and additional amendments dealing with terrorism. The first principle deals with the importance of recognizing terror acts as crimes. The second focuses on punishment for these crimes and the appeal for prosecution and extradition of their perpetrators. The third describes a necessity to eliminate legal articles which provide for exceptions from criminalization of terror acts in case of their having political, philosophical, ideological, race, ethnic or religious basis. The fourth concerns an appeal to Member States for taking measures preventing terrorist acts. The fifth presents the emphasizing the necessity of cooperation of the states, information exchange and ensuring mutual help in prevention, detection and prosecution of terrorist acts.⁵²

Together with contemporary 19 most significant conventions and numerous protocols regulating the fight against terrorism, there are resolutions of the UN Security Council mentioned earlier that play an important role, being the third most important UN acts of the international law. We have to bear in mind that the day after the attack on the World Trade Center in New York, the UN Security Council issued the resolution condemning terrorist acts of the 11th September 2001, describing them as a threat to the world peace and security. The Security Council called all the States to increase the pace of struggle leading to the ratification of appropriate UN anti-terrorist conventions by all states.⁵³ Two weeks after the attacks of September 11, 2001, Resolution 1373 was passed, reaching a greater scope than the previously mentioned existing thirteen anti-terrorist conventions, as it was signed by 192 states. This convention entails prosecution of a person or organisations financing terrorism, freezing bank accounts of the persons suspected of involvement into terrorist activity. Unfortunately, the Security Council did not offer clear guidelines how to understand the terrorism, which was what the international society

⁵¹ *Legislative Guide...*, pp. 5–12; *Delivering...*, pp. 3–4.

⁵² <http://un.org/counterterrorism/international-legal-instruments>, access date: 1.02. 2023.

⁵³ *Resolution 1368 (2001) condemning the terrorist attacks of 11 September 2001 in New York, Washington D.C. and Pennsylvania, United States of America*, <http://www.un.org>

expected to get to know. Pursuing to Resolution 1373, the Anti-Terrorist Committee was established, consisting of 15 representative members of the UN Security Council. Its task is advising the states on how to adjust their internal law in order to fulfil the provisions of the resolution and conventions on financing terrorism.⁵⁴

Many resolutions adopted by the Security Council in this area,⁵⁵ play an important role in development of a modern antiterrorist legal order. For example, in 2002, the UN Security Council passed another Resolution 1390, ordering all the states to freeze the funds and other types of financial security of individual persons and organisations.⁵⁶ Also, in 2002, Resolution 1452 was issued, again calling the states to fulfil recommendations from the previous resolutions.⁵⁷ In 2003, the UN Security Council adopted Resolution 1455, obliging the UN Member States to write reports on the fulfilment of recommendations from the resolutions and to cover information about conducted investigations and proceedings.⁵⁸ Also, after bloody events in Istanbul in 2003, the UN Security Council adopted Resolution 1516, opposing terrorist attacks.⁵⁹ In 2004, five Resolutions were passed: 1526⁶⁰ and 1535⁶¹ – on threats to international peace caused by terrorist acts, 1540⁶² and 1566⁶³ – introducing modifications to previous Resolutions and 1530⁶⁴ – condemning terrorist attacks in Madrid. In 2005, the UN Security Council passed only Resolution 1611⁶⁵ condemning the terrorist attacks of the 7th July in London.⁶⁶

⁵⁴ M. Szewczak, *Zwalczanie...*, p. 404; *Resolution 1373 (2001) on international cooperation to combat threats to international peace and security caused by terrorists acts*; <http://www.un.org>

⁵⁵ B. Krzan, *The UN Security Council...*, pp. 79–92; W. Czapliński, *Ewolucja kompetencji Rady Bezpieczeństwa ONZ* [Evolution of powers by the UN Security Council], *Aktualne problemy prawa międzynarodowego we współczesnym świecie. Księga pamiątkowa poświęcona pamięci Profesora Mariana Iwaniejko*, [in:] K. Lankosz (ed.), Kraków 1995, p. 28.

⁵⁶ *Resolution 1390 (2002) on measures against the Taliban*, www.un.org

⁵⁷ *Resolution 1452 (2002) on implementation of measures of Resolutions 1267 and 1390*; <http://www.un.org>

⁵⁸ *Resolution 1455 (2002) on improving implementation of measures by 1267, 1333 and 1390 Resolutions*, <http://www.un.org>

⁵⁹ *Resolution 1516 (2003) on the bomb attack in Istanbul*, <http://www.un.org>

⁶⁰ *Resolution 1526 (2004) threats to international peace and security caused by terrorist acts*, <http://www.un.org>

⁶¹ *Resolution 1535 (2004) threats to international peace and security caused by terrorist acts*, <http://www.un.org>

⁶² *Resolution 1540 (2004) threats to international peace and security*, <http://www.un.org>

⁶³ *Resolution 1566 (2004) threats to international peace and security*, <http://www.un.org>

⁶⁴ *Resolution 1530 (2004) on the bomb attacks in Madrid*, <http://www.un.org>

⁶⁵ *Resolution 1611 (2004) threats to international peace and security by terrorist acts*, <http://www.un.org>

⁶⁶ *Uniting against terrorism: recommendations for a global counter-terrorism strategy, Report of the Secretary-General*, General Assembly, 27 April 2006.

More recently, with Resolution 2396 of 2017, the Security Council broadened the obligations of States in relation to criminal justice, broader security, and cooperation and called for the creation of “watch list or databases” of suspect persons and information sharing between States. This process was further developed in Resolution 2462 of 2019, emphasizing the need for “dissuasive criminal sanctions.”⁶⁷ As B. Krzan points out, “the growing legislation by the Security Council has been focused mostly in impacting the domestic reactions, but the Council could also play an important role in the international prosecution of terrorism. In the end, a rather comprehensive approach has been offered with respect to its prevention.”⁶⁸

Conclusion

Professor Zbigniew Brzeziński, while discussing international terrorism, referred to the issue of state responsibility towards the law and society. According to him, “state becomes the state of law and the state is subject to law, while the court system becomes the main instrument of the state’s legal liability to the society.”⁶⁹

The issue and the scope of contemporary terrorism and cultural identity in international law in frames of the complex international security architecture is enormous and goes beyond this analysis. What remains unquestionable is the fact that for the last 40 years international law, especially the branch of international criminal law, has considerably developed in its fight against international terrorism. However, this fight is mainly the problem of the police and domestic courts. The cooperation between the police and the courts has improved on both bilateral and regional level. The majority of prescriptive issues have resulted in success.

The significance of the Charter of the United Nations increased, as well as a great number of international conventions and protocols were adopted and ratified or passed by resolutions throughout these years on the universal level by the UN. All of this proves not only the effectiveness of this international organization in its fight against terrorism, but mostly the evolution of international law in this field. There are of course many other aspects of this subject, such as: international cooperation in criminal cases, international security versus human rights – the question of rights of a terrorist attack victim, as well as the EU regulations concerning terrorism.

⁶⁷ B. Krzan, *The UN Security Council...*, op. cit., p. 90.

⁶⁸ *Ibidem*, p. 92.

⁶⁹ An excerpt from the lecture and discussion of Professor Zbigniew Brzeziński’s lecture and discussion...

Fast ratification and effective implementation of all universal legal instruments is currently the priority of the UN. These standards should be implemented as soon as possible. In this aspect, it cannot be denied that certain problems will appear because certain states are not able to hold power on their own territory, which can also be the result of the internal condition of these states.

The UN Security Council appealed to all Member States, in its Resolution 1373 of 2001, to become the party as soon as possible in order to fully implement legal instruments and cooperate in the fight against terrorism. Since then, significant development has taken place but the comprehensive ratification of the global convention of the fight against terrorism has not been reached.

Even if the comprehensive ratification of all legal instruments is achieved, its full implementation will in fact remain a tale of the future. Most of the work will be still related to their realization, concerning effective and practical use of these instruments and establishment of global regimentation in the fight against terrorism. International cooperation in criminal cases, especially concerning extradition, mutual legal custody and the right to cooperate, is required as the preliminary condition for effective implementation of the legal structure, concerning the fight against terrorism. Comprehensive legal instruments against terrorism are defined by specific acts, which must be taken into consideration, and states, with their different cultural identities, are obliged to do it, even without clear definition of terrorism. The fact that the meaning of notions such as terror and terrorism are currently renewed allows us to perceive new layers and aspects of the legal standards under examination and new phenomena. However, the acceptance of these standards depends on states' will – the most important subjects of international law.

Taking into account existing and the future development, increasing globalization of actions and certain terrorist systems, states which are potential targets of murderous attacks must face these problems, with the support of mechanisms of efficiently functioning international law, established mainly by the UN branches.

Also, with existing and future development of terrorism and the role of cultural identity for public international law in frames of the complex international security architecture, some recommendations for the future should be made.

Firstly, establishing strong, stable and organized international security environment with efficient mechanism regulating international law resolving fight against terrorism still remains a great challenge. It will play crucial role in the further evolution of the international security paradigm.

Secondly, the condition of international security should be examined according to the complex criteria of the state of control of security through international

law. Specified criteria would refer to state bodies, and through them, to other subjects of the international law, which would act to create the other criteria. Possible regulations concerning the public international law might constitute the basis of creating criteria of state's international security and the security of international society. Following criteria of the international security should refer to specific standards and their implementation in the possibility of working out clear regulations on the comprehensive fight against terrorism. *Opinio iuris* of clear practice of enacting and implementation the international law is therefore required.

Thirdly, in the increasing globalization of actions and certain terrorist systems, states must act with the support of mechanisms of efficiently functioning international legal order, established mainly by the UN branches, especially UNODC. Future work should focus on the realization of effective and practical use of anti-terrorist legal instruments by establishment of global regimentation. International cooperation in criminal cases is required as the preliminary condition for effective implementation of the legal structure, concerning the fight against terrorism.

International law is made constructively to fight against terrorism, well known to the states being its main subjects, with their different cultural identities. This is a fundamental condition of international legitimization of their work in the fight against terrorism, as well as a complex cultural identity of contemporary international system.

Abstract

The arguments put forward in this article concern the significance of terrorism and the role of cultural identity for public international law. These issues have a big influence on the complex international security architecture. Contemporary guarantees of international security are defined by development and activity of anti-terrorist coalition members. They hold the dominant position among the values and interests of different countries, deciding on their international existence. The range of values safeguarded by international law with the multiplicity of factors and broad perspectives ensuring preservation of these values, are crucial for international security. In this way, the international security is a synthesis of vital interests of numerous countries in combating terrorism taking into account the notion of cultural identity and diversity.

Key words: international terrorism, cultural identity, international law, international security

Streszczenie

Przedmiotem głównych zagadnień analizowanych w niniejszym artykule jest znaczenie terroryzmu i roli tożsamości kulturowej dla prawa międzynarodowego publicznego. Niniejsze kwestie mają istotny wpływ na kompleksową architekturę bezpieczeństwa międzynarodowego. Współczesne gwarancje bezpieczeństwa międzynarodowego są definiowane poprzez rozwój i aktywność członków koalicji antyterrorystycznej. Zajmują one dominującą pozycję pośród wartości i interesów różnych krajów, decydując o ich międzynarodowej egzystencji. Zakres wartości chronionych przez prawo międzynarodowe wraz z wielością czynników i szerokimi perspektywami zapewniającymi zachowanie tych wartości są kluczowe dla bezpieczeństwa międzynarodowego. W ten sposób bezpieczeństwo międzynarodowe stanowi syntezę żywotnych interesów wielu państw w walce z terroryzmem z uwzględnieniem tożsamości i różnorodności kulturowej.

Słowa kluczowe: terroryzm międzynarodowy, identyfikacja kulturowa, prawo międzynarodowe, bezpieczeństwo międzynarodowe

