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**MAPPING THE DEVELOPMENT OF ANTI-TERROR
LEGISLATION IN GREECE IN THE AFTERMATH OF 9/11**

ANDREAS BANOUTSOS

**(Dissertation submitted in partial fulfilment of requirements for the
MA in Intelligence and Security Studies, Brunel University (UK) 2006)**

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Declaration

I declare that no part of this dissertation has been taken from existing published or unpublished material without due acknowledgement and that all secondary material used therein is fully referenced.

Andreas Banoutsos

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Abstract

This thesis examines the nature and the effects of anti-terrorist legislation development in the aftermath of the 11th of September by focusing on Greece, whereas it also examines the role of the United States, the United Nations and the European Union.

This thesis also identifies and analyzes the origins of terrorist organizations in Greece, reveals how the terrorist situation was created, and examines the causes that led to the inception of these terrorist organizations.

The research conducted for this dissertation includes secondary data through the extensive study of archives, bibliography, the world wide web and the use of personal informal interviews and also research mainly on electronic and paper media. This research proves the emphasis the 11th of September has placed on antiterrorist legislation in Greece, the US and the European Union.

Furthermore it showcases the importance and impact of these developments in Hellenic domestic politics and it opens a new framework for future research and analysis.

CHAPTER ONE - INTRODUCTION

'Justice is but the interest of the stronger' – Plato

*'Killing a man is murder unless you do it to the sounds of trumpets' -
Voltaire*



Aim – Rationale - Trigger

International terrorism has long been recognized as a serious foreign and domestic security threat. This dissertation aims to examine international anti-terrorist legislation developments and national policy responses.

The term **terrorism** is largely synonymous with "political violence," and refers to a strategy of using coordinated attacks that typically fall within the time, manner of conduct, and place commonly understood as unconventional warfare.

"Terrorist attacks" are usually characterized as "indiscriminate," "targeting of civilians," or executed "with disregard for human life." The term "terrorism" is often used to assert that the political violence of an enemy is immoral, wanton, and unjustified. According to the definition of terrorism typically used by states,

academics, counter-terrorism experts, and non-governmental organizations, "terrorists" are actors who don't belong to any recognized armed forces, or who don't adhere to their rules, and who are therefore regarded as "rogue actors".

As the 9/11 Commission report released on July 19, 2004, concludes, the United States for instance, decided to use all tools at its disposal, including diplomacy, international cooperation, and constructive engagement to economic sanctions, covert action, physical security enhancement, and military force.

A modern trend in terrorism is toward loosely organized, self-financed, international networks of terrorists. Another trend is toward terrorism that is religiously- or ideologically -motivated. Radical Islamic fundamentalist groups, or groups using religion as a pretext, pose terrorist threats of varying kinds to U.S. interests and to friendly regimes. A third trend is the apparent growth of cross-national links among different terrorist organizations, which may involve combinations of military training, funding, technology transfer, or political advice.

As terrorism is a global phenomenon, a major challenge facing policy makers is how to maximize international cooperation and support, without unduly compromising important national security interests. A growing issue bedeviling policymakers is how to minimize the economic and civil liberties costs of an enhanced security environment. The issue of how to combat incitement to terrorism — especially in instances where such activity is state sponsored or countenanced — perplexes policymakers as well.

The basic reason that triggered this research is the fact that terrorism is a global phenomenon with a variety of elements and interrelated issues. The impact of the events of the 11th of September has affected international politics and relations tremendously. One of the most important domain that these changes had a huge impact is anti-terrorist legislation.

Following this reference, the original objective of this research project is to map the significant anti-terrorism legislation in Greece in relation to the impact of the 11th of September and in accordance with the domestic historical framework and the external environment.

The main hypothesis that has to be formulated in this initial stage of this project is that the phenomenon of terrorism is full of complexities and under transition whereas, it receives a variety of interpretations in our contemporary international

system. This dissertation tries to verify this hypothesis through the extensive research of the development of anti-terrorist legislation. It is rational though that, the need to continue researching this domain remains since current international developments are radical.

The research will be based on both theoretical and empirical evidence and will include mainly secondary data. In this framework, the main research objectives of the dissertation are:

- ✓ To understand and realize major issues of international terrorism
- ✓ To draw significant conclusions about the operation of terrorist organizations in Greece
- ✓ To describe how the events of the 11th of September affected the anti-terrorist legislation of Greece
- ✓ To present the main legislative changes in Greece and their historical background
- ✓ To investigate the formulation method of anti-terrorist legislation in Greece and to examine the level to which such a development has adopted and realized by the people
- ✓ To highlight on the involvement and the role of the United States, the United Nations and the European Union regarding anti-terrorist legislation

Description of Chapters Content

This dissertation is divided into six chapters as follows:

- Chapter 1: The Introduction part of the dissertation provides a general view of terrorism and presents how it affects international and Greek politics.
- Chapter 2: It includes the definitions and explanations of the phenomenon of terrorism; it gives emphasis on international terrorism, the terrorist organizations in Greece and the historical, socio-political and ideological environment.

- Chapter 3: It analyses Greece's anti-terrorist legislative debate and developments. This part will include the institutional development of Greek legislation about facing terrorism and the confrontation of terrorism as a crime
- Chapter 4: It highlights upon the American approach for anti-terrorist action and comments upon the hypothesis that anti-terrorism is a parameter of the US foreign policy. It also analyses the American policy after the events of the 11th of September.
- Chapter 5: Following the chapter on the United States, this section examines the impact and the role of the United Nations and the European Union in the development of anti-terrorist legislation. Great emphasis is also placed on the impact of these developments upon Greece.
- Chapter 6: The last part of the dissertation will contain the conclusions and recommendations drawn based on the previous findings. A summary of the research and the findings will be included at this point as well as some thoughts for further research.

CHAPTER TWO – THE PHENOMENON OF TERRORISM: GENERAL FINDING AND THEORETICAL PERSPECTIVES

International Terrorism

The end of the 20th century brought many changes to the section of terrorism, especially international, since that was the cell of “new matters of security”, which entered the activity field of international organizations, after the collapse of dipolism. The changes that took place in the international political arena helped the development of both the operational policy and the strategic action, upgrading that way its confrontation. Within the limits of these changes, the possibility of upgrading terrorist actions, by using means which were considered to be inaccessible for non-state players, is now a peak point.

It's worth to be notified that, in sort time, weapons of massive destruction, a privilege, till then, of the powerful factors of the dipolic system, became, potentially mainly, a mean of terrorist actions. But the most important matter that arises after the international changes was and still remains the exaltation of acts of violence using the Islamic extremism as a keystone. That's a matter that would have different dimensions if it came from the same geographic area and its victims were of the same religion or origins as the perpetrators. Attacks against “heathens”, the use of religion as an alibi from all involved sides, the bloody attacks against American, and other, targets, shaped a set of terror, whose ending hasn't been yet seen by humanity. The revengeful religious violence, which in fact contains many odd political elements, is expected to become in the future a matter of further geopolitical conflict and, therefore, a matter of research and analysis, part of which will occupy the analysts of political violence.

At the European countries, acts of terrorism- at least those of the “left terrorism”- tried through a sort- lived violent confrontation against state power the policy of the political “intervention”, within the limits of shaping a revolutionary prospect. This particular conflict included the intention of a substantial interim

political result. The failure of the attempt showed the political weaknesses of the choice of armed action by few- numbered organizations.

The ideological prevention of the phenomenon of terrorism is a special matter, since “formulas” about functionalism and control of society couldn’t possibly exist in democratic regimes, where the matter of differentiation and, sometimes, armed reaction of groups and organizations is inherited to their development. It’s considered obvious that they have significant possibilities, dynamic mechanisms and safety valves to overcome the adversities caused by a dissenter group. Since the democratic function of regime is based on the advantage of having the appreciation and the legalization of most citizens, it has the power to move the public opinion against minorities, which fight against the fundamental principles of the regime. Through political parties, citizens and voters have the ability of alternate political choices. That way, political parties participating to the governing of the country, have the ability to adapt rapidly their policy to the requests expressed by their citizens. In a few words, democratic regimes don’t change their policy because of terrorist movements or organizations, but because of the existing social requests.¹ On the contrary, someone could certainly claim that terrorism reinforces the “negative” dimensions of state, since it allows the development of mechanisms and structures, in whose presence each terrorist organization ideologically objects. Respectively, the same goes for the international terrorist attacks. The dimensions that now takes a terrorist attack through the involvement of states, brings, generally, reinforcement of suppression on an international level, appointing reproaches of a systemic character.

In spite of these, the problematic generally referring to the confrontation of the phenomenon functions in one- dimension, within the frame of suppression. It’s now self- evident that, getting- around the parameter “prevention”, the philosophy of facing this phenomenon becomes, at least, non- rational. Therefore, any attempt of confronting terrorism has to be based on the especial political dimensions the phenomenon expresses or impresses, as well as the presence of particular typological characteristics, based on which works the scientific approach and analysis of the phenomenon. Fatefully, crossing- out a basic methodological base would make the

¹ Wilkinson P., *Terrorism Versus Democracy, The Liberal State Response*, Frank Cass, London, 2000, pp. 78- 93

confrontation of the matter problematic, causing preventions of a semantic content, which work on a political level.² It's about the cell of a fundamental matter, since terrorism is now a "criterion" of international and one- sided interventions.

Based on this particular grounds, important semantic shortages are found while approaching the phenomenon, from which are indicatively reported the following:

- The geometrically increasing occupation of national and international organisations with terrorism, work on a mechanistic and one-dimensionally repressive limit, deigning that way the preventive and in- deep confrontation of the phenomenon
- The international dimensions of the phenomenon brought equivalent attempts of a semantic delimitation but, since acts of violence escaped a unified view and facing, demonising the matter became a convenient solution. The dimensions of suppression dominated as the only common point between the states that lived it and those who agreed to help facing it
- The usual facing of both the states and the international organisations, mainly the UN and the EU, focuses on the obscure legal approach of a problem, especially when its dimensions can't be controlled or perceptible by simple or procedural methods. The UN has faced terrorism in various ways, trying to bridge many different opinions³. Never the less, the opinions expressed till now, don't respond to the crucial matters of the creation of terrorism, while, often, they are identical with the American.⁴

² see Bossi M., *Defining Terrorism*, P. Travlos ed., Athens 2000

³ *ibid*, p. 93

⁴ Since 1972, where the Organisation was occupied systematically to the matter of terrorism, most of its decisions were directly related to American precepts or were the result of American pressures. The American governmental thought, especially after the 11th of September, appointed terrorism as the most important matter of security on both a national and an international level.

- On a national level, discovering that terrorism is a serious threat for the normal development of a regime, a society and its mechanisms, made the governments proceed with laws and regulations, in order to face the problem. Working on the basis of the political one-sidedness, they missed the ability of delimiting the phenomenon, since defining terrorism has the same problems as any other political matter

The presentation and action of terrorist organizations during the 60's made both the states and the international organisations occupy with the phenomenon in two levels, national and international. The international terrorism is a phenomenon with plenty dimensions, various perpetrators and expansionist, geographically and functionally, abilities. In Europe, the international terrorism appeared, acted and, after the breaking-up of dipolism it gradually subsided, while the national terrorist organizations had already completed their "circle" since the 80's.

In this report, through the selective referring to the Proceedings of the Parliament, is appointed the grounds that periodically occupied the political parties, as well as the way they gradually faced terrorism, both on a national and an international level. On a parallel level, there's an indicative report of the legislation the USA followed after the 11th of September 2001. This particular report, besides the extreme confrontation of an extreme crisis, impresses the role of the USA, as the "extractor of legislation", within the limits of consolidating their global domination. Reference to the ratification of the UN decisions by the Greek state is made under the light of the international circumstances that lead the Organisation take special measures.

Terrorist Organisations in Greece

Introduction

Almost after three decades of unsuccessfully combating various leftist terrorist groups from 1975 until 2002, a failure due to the belief that these groups were not a direct threat to the democracy, Greek authorities made incredible progress toward the discovery of "**November 17**", the primary leftist group (see Appendix I and II). This

breakthrough came on June 29th 2002, when a time bomb detonated in the hands of its handler in the port of Piraeus. Because the police gathered forensic evidence from this bomb attack, they eventually arrested the first member of November 17, over 27 years after its first attack on December 23, 1975, and the assassination of CIA Athens station chief, Richard Welch, outside his house in Athens.

This was the first time since 1996 that Greece's Prime Minister Costas Simitis, declared "we have begun to unfold the mystery of November 17,"⁵ as the Greek law enforcement's authorities seemed to have a clear picture of the structure of November 17.

In mid-2003, the Greek government believes that the most important members of the organization have been arrested. Their trial began in Athens in March 2003. However, a series of problems has emerged. The members of the group repudiate the authority of the court to judge them, as they assume themselves to be political criminals, not terrorists, and their crimes to be political crimes.

The trial, its procedures, and the light that will be shed on the unanswered questions that have troubled Greece for so many years have interested the nation greatly since. November 17 was the last communist terrorist organization in Europe and since Greek authorities failed to arrest even one of its members after nearly 30 years of lawlessness, a myth took shape around that revolutionary organization.

Presently, the Greek authorities have started dislodge the other major terrorist group in Greece, the Revolutionary People's Struggle (ELA), and startling revelations have arisen about the connections between the two groups, about the way they function and their strategies, and eventually their connections with other terrorist organizations in Europe and elsewhere.

After the lethal attacks against the United States, on September 11, 2001, the arrest and collapse of a terrorist group has more importance. Obviously, in our era, the phenomenon of terrorism has become global, escaping the narrow limits of national interest. The connection and the cooperation of terrorist organizations globally must be examined carefully during investigations and during the attempts to eliminate them. The attacks of September 2001 against the United States revealed the broadness

⁵ Eleftherotypia (Greek Newspaper), July 2, 2002 Issue.

of such threats, and even *Le Monde*, the French newspaper, wrote the next day on its first page, “We are all Americans.”⁶ The attacks were directed not only against the United States but also against all the open democratic and multicultural societies. As a result, democratic countries declared their support and solidarity to the Americans and their intention to bring the people who were responsible for the attacks before the law for the appropriate punishment.

An investigation is able to show that these terrorists groups, whether or not they are known to the public, share interrelations that make them more deadly, but more vulnerable to their final elimination by national governments and police and intelligence services.

Therefore, the origins of these terrorist organizations, their historical background, the socio-political environment, and ideology must be understood. These terrorist groups produced nothing apart from victims. No one suppressed them, and they did not seek to liberate anyone. These terrorists took advantage of the rights and freedoms of the democratic regime and tried to overthrow it violently.

Examining these issues will help other nations fight and eliminate terrorist organizations around the world. One must understand the issues that contribute to the emergence of such groups, if one hopes to eliminate them permanently. These terrorist groups must understand that their tactics are strongly opposed by the civilized world and are regarded as moral and political crimes that will never be accepted or defended by the modern democratic societies.

Definitions of Terrorism

Terror is a highly subjective experience and everyone has different limits and reasons for feeling frightened of certain experiences and images. One definition of terror is the unintended or derived by-product of other events that are beyond our power to predict or to control.⁷

⁶ *Le Monde* (French Newspaper), September 12, 2001 Issue.

⁷ Paul Wilkinson, *Terrorism and the Liberal State*, Frank Cass Publishers, p. 51.

According to Paul Wilkinson, a Professor at the University of St. Andrews and an expert in the study of terrorism since the early 1970s, terrorism is the systematic use of coercive intimidation, usually to achieve political ends, and it is used to create and to exploit a climate of fear among a wider target group than the immediate victims of the violence, and to publicize a cause, as well as to coerce a target to accept the terrorist's goals.⁸ Terrorism concerns the use of murder and destruction and the threat of murder and destruction because one way for terrorists to achieve their demands is to terrorize all individuals and governments.

Although there is no agreed upon detailed definition for terrorism, as to its character or type of operation, most experts agree that the element of fear is important to the determination of this phenomenon. Additional characteristics of the terrorist groups are ruthlessness, disregard for established humanitarian values, and a limitless quest for publicity through the mass media. The most common methods that are used by terrorists to achieve their goals are hijacking, hostage taking, bombings, assassinations and mass murders. However, terrorism is not only politically motivated. Common criminals might use terrorist attacks such as ransom or revenge, just to succeed in their vile goals.

The phenomenon of terrorism is usually divided into two basic types: factional terrorism, which assumes international goals, and national or politically motivated terrorism, which focuses on forcing changes solely in a particular state.⁹ The distinction entails terrorist groups that are either internationally or nationally motivated.¹⁰ Internal terrorism is restricted to national territory, and international terrorism is an attack beyond international borders, and even on a foreign target. Of course, in our modern world, terrorist attacks usually have international dimensions, and they are not confined to a single state or region. Law enforcement agencies have much more ability to control internal terrorists because they have the resources, authority and jurisdiction over their own nation.

⁸ Paul Wilkinson, *Terrorism versus Democracy: The Liberal State Response*, Frank Cass Publishers, 2001, p. 12.

⁹ Graham Evans and Jeffrey Newnham, *The Penguin Dictionary of International Relations*, p. 531.

¹⁰ Paul Wilkinson, *Terrorism versus Democracy: The Liberal State Response*, p. 13.

Terrorism and its actions are not part of a philosophy or a political movement but are only a method of conflict and of war, which terrorists choose to achieve their goals. Also, cases exist in which terrorism has been used for liberal reasons, for example in Cyprus and Algeria against the colonial rule of the United Kingdom and France. Yet even in these cases, actions like killings and bombings were not morally justified, as the basic rights of innocent citizens were in danger. The paradox is that even with tremendously lethal attacks, the terrorists' goals have rarely been successful and terrorist attacks alone have not been able to overthrow democracies or even repressive regimes.

The popularity of terrorism among the nationalists, ideological, and religious extremists might simply be their desire to express their hatred and desire for revenge. Terrorists have a tactical edge because their methods are relatively cheap, easy to organize, and are not considered very risky.¹¹

In general, terrorism as a method of warfare has the following salient characteristics:¹²

- There are no inherent concerns about the after effects of terrorist attacks,
- Terrorism is mainly arbitrary and unpredictable, in the minds of its victims and audience, and in its effects upon individuals and society,
- Terrorism implicitly denies the recognition of all rules, principles and international conventions of war,
- Terrorists' reject all moral constraints, which is reflected in the use of terrible and dreadful weapons,
- Terrorists justify politically motivated terrorism to seek revenge.

Terrorists believe that they act according to a higher revolutionary morality that justifies all their actions, even actions that are essentially not much different from the actions of common criminals. They pay no attention to the generally accepted humanitarian principles and values and with much defiance and pride, they place

¹¹ Ibid., p. 13

¹² Paul Wilkinson, *Terrorism and the Liberal State*, pp. 53-54.

themselves above and outside moral law. As concerns written law, they believe it to be a creation of the ruling class, an “international conspiracy” against their rights, their country, and their interests in general.

All the above characteristics of modern terrorists groups are applicable to the case of November 17, the revolutionary organization that embattled Greek society.

The Historical, Socio-Political and Ideological Environment

It is rational that revolutionary behavior is a part of society and cannot be studied separately from its social, political and ideological environment. The terrorism by leftist groups in Greece was the result of a complicated series of political conditions and cultural influences. These conditions provided the foundations upon which terrorism was established in Greece during the 1970s.¹³ Greek history during the last century and the geographic position of the country determined modern Greek political traditions.

Liberal, leftist traditions, and an idea of national legitimacy shaped a revolutionary ideology in which violent disagreement against political rules became the basic mental framework around which terrorist groups tried to establish a strategy that could have any possibility of success. The historical endurance and importance of these traditions influenced the way that November 17 selected its methods of resistance and justified the violence of the organization.

However, certain traumatic experiences in Greece’s political history were extremely different from any other country in Europe. More specifically, the Greek civil war from 1946 to 1949 was the culmination of a series of uneven struggles in Greek society between the left-wing guerrilla fighters and the right-wing government, as well as struggles that had begun in the mid-1920s between the political elite and the working class.¹⁴ In the end, the government prevailed and democracy survived, mainly by the 1947 intervention of the United States under the Truman doctrine in

¹³ George Kassimeris, *Europe’s Last Red Terrorists: The Revolutionary Organization 17 November*, New York University Press, 2001, p. 8.

¹⁴ John O. Iatrides, *Greece at the Crossroads: The Civil War and its Legacy*, Pennsylvania University Press, 1995, p. 10.

that conflict. Thus, Greece became the first battleground of the Cold War and the first victory against the Soviet Union and its allies.

An anti-communism campaign and a state of political repression prevailed in the country and the civil war schism expanded to the population. This division became the main element of political life in Greece for the next thirty years. The police and the secret services enforced discrimination against the communists or the citizens who supported communism, in the civil service, the army, the police, and the universities. Political and economic exclusion were widespread in society. A large police bureaucracy kept files on Greek citizens and the population was divided in two categories: “ethnikofrones” and “non-ethnikofrones,” meaning nationally minded citizens and leftists.¹⁵ That situation continued until the summer of 1974, the moment the dictatorship collapsed and Greece transitioned to democracy after seven years of military junta.

A previous attempt to transform the nation begun during the early 1960s, with the victory of the liberal Center Union party in the 1963 election and had violently ended with the 1967 Colonels’ coup, which imposed a military regime for seven years. This period dramatically impacted political life in Greece and national political values and attitudes. At that time, the fundamental institutional pillars of the Greek political system, such as the throne, the army and the parliament, were terrified of the changes in the Greek society and to changes to the political democratization of the country. As a result, the army, which had a dominant role in society, decided to act and to try to determine the developments.

Therefore, the coup of 1967 was in one sense, a desperate attempt by the army to protect its position and supremacy. The military abandoned their post-civil war role in Greece as simple arbitrators of internal conflicts of the ruling classes and acquired a prevailing role and position in the power structure in order to reorganize the country’s political life by extinguishing the conditions of anarchy and chaos that were omnipresent in Greek politics.¹⁶

¹⁵ Minas Samatas, Greek McCarthyism: A Comparative Assessment of Greek Post-Civil War Repressive Anticommunism and the US Truman-McCarthy Era, in *Journal of the Hellenic Diaspora*, Vol. 13, Fall-Winter 1986, p. 35.

¹⁶ George Kassimeris, *Europe’s Last Red Terrorists: the Revolutionary Organization* 17 November, p. 21.

However, eventually and fortunately for Greece, the military dictatorship collapsed in the summer of 1974. This collapse of the military junta came as a cumulative result of the economic crisis from 1972 to 1973, the student uprising of November 1973 in the Athens Polytechnic, and the Turkish military invasion in Cyprus in the summer of 1974. The outcome of this invasion was losing the northern part of the Cyprus Island and the perpetuation of that tense situation until today, even though the United Nations' Security Council has condemned the possession of that region by Turkey, with many resolutions.

At a deeper level, the military junta in Greece collapsed because it failed (like most authoritarian models of government) to establish an apolitical system with the appearance of legitimacy that could follow the military regime.¹⁷

A mixture of continuity and change marked the 1974 transition (metapolitefsi), from an authoritarian rule to a democratic constitutional order. The Greek conservative party (New Democracy) came into power for two consequent periods until 1981, when the socialist party (PASOK-Pan Hellenic Socialist Movement) won the national elections.

During the years of conservative governance, a new constitution was implemented, the communist party was legalized, junta sympathizers were expelled from the armed forces and the junta's leaders were prosecuted for their crimes. However, there were no systematic purges of the civil-military bureaucracy, the police apparatus and key sectors of the state. Also, in 1980, Greece became a full member of the European Economic Community (EEC). This gave a new potential to the Greek economy and policy because Greece gained power in the international arena through its participation in the EEC. The political and economic elements, however, remained in the hands of the old order. The main reason for this was the need for political stability, economic growth, and defenses against Turkey, which had once again become a crucial factor in Greek foreign affairs, as Turkey was regarded as a permanent threat.

PASOK's victory in the 1981 election ended almost half a century of right-wing political monopoly, and it was the first socialist government that Greece had ever had.¹⁶ The promised change in political life (Allaghi) that PASOK promised

¹⁷ Ibid., p. 23.

Greek society was not delivered. Many indications of compromise between the rhetoric and the reality of the societal problems became clear.

Symptoms of arrogance became clear, symptoms like corruption and bribery and from 1990 onwards, the use of scandals and ethical accusations became an accepted feature of Greek political life. Accusations of political abuse, corruption and economic waste had a tremendously negative impact on the public spirit.¹⁷

The events that followed the collapse of the Soviet Union and other regimes in Eastern Europe, the Yugoslav crisis, and the emergence of the former Yugoslav Republic of Macedonia (FYROM), a country considered by the Greeks to be a serious threat to Greece itself, complicated the political and international environment. The outcome of these problems was a general crisis and discontent of the Greek citizens about the political process and a loss of faith in the political parties that left their corrupt signs on society.

CHAPTER THREE – GREECE’S ANTI-TERRORIST LEGISLATIVE DEBATE AND DEVELOPMENTS

The Institutional Development of Greek Legislation about Facing Terrorism

At first, Greek governments faced terrorism by voting and ratifying international Agreements. Later, when terrorism was established as an internal problem, they formed and voted special laws at the Parliament, having in mind that Penal Law didn't have the authority, the competence or even the completeness to face terrorism.

Under that light, in 1978, the Greek government suggested to the Parliament L.774/78, “Suppressing terrorism”, claiming that: “I strongly believe that in this room, all parties of the Parliament agree on one principle: this new form of crime, terrorism, under the A or B form, under the A or B definition, which attacks not just to individuals but Democracy and State itself, wherever it comes and wherever it may be heading, it has to be faced completely and successfully.”¹⁸

The placing of the draft's sponsor focused on the lack of a specific institutional frame and, also, the insufficiency of the current Penal Law to cover the needs formed by the new situation. The law about “suppressing terrorism” was named “Specific Penal Law” and under that trait it was presented to the Parliament for vote.¹⁹ The Opposition disagreed on the insufficient formation of the text, from which were missing the clear reference and the definition of the term that was under discussion (terrorism). As it wasn't against voting the law, it referred to the abolition of the “state of law”, notifying that this law “gives the classic character of a police state”.²⁰

¹⁸ Parliament Proceedings, Plenary Sessions ΝΘ'-ΟΘ', 3rd April 1978- 12th May 1978, p 2400

¹⁹ *ibid*, p. 2401

²⁰ *ibid*, p. 2405

This particular law, after the withdraw of the Opposition, was voted by the government and remained till 1983, when it was repealed.²¹ The “political” character of the law isn’t an accidental fact, but the result of the historic tension of the particular time, whose characteristic were the intensities and the phrasal sparring. From the other hand, memories of a time where opinions and ideas were crimes were recent to the members of the Parliament and even more to the conscience of the Greek people. The “cruelty” of this particular law, who was in fact the same as the European, was said to be “morally, politically and legally unacceptable”²², due to its ability of being used on different- thinking citizens and not because of its general position towards terrorism²³.

At this period, the ruling opinion was the completeness of Law and the capability of the authorities to move with flexibility in the ideological space, where the Greek terrorist organizations claimed to belong. Since the Greek terrorist organizations had defined their ideology and the authorities had remarkable results in arrests, sprains of organizations and, generally, in corroding the left ideology, an added law was considered a mean of suppressing labour claims, within a prospect of persecuting the left ideology and not just confronting terrorism, which had already started acting in Greece.

A few years later, in 1988, after the elections, the government brought to the Parliament the “European Agreement for Suppressing Terrorism”.²⁴ Ratifying the European legislation could perhaps have been a typical part for the Greek government, if there weren’t the reserve on the part that gave the right to deny the

²¹ Law no 1336. Modifications of terms of the Penal Code, of the Code of Lawyers, settlement of Justice matters and other terms. Athens, 23rd June 1983. Parliament Proceedings, Sessions PKΣT', 16-5-1983, PKH', 18-5-1983, PKΘ', 19-5-1983, ΠΛΑ', 23-5-1983

²² Parliament Proceedings p. 2776

²³ *ibid.*

²⁴ Newspaper of the Government of the Greek Republic. Athens, 20th June 1988. Issue A', n.l. 133, Law 1789/88. Ratification of the European Agreement for the suppression of terrorism. Article 1st is ratified and operated defined by article 28, par 1 of the Constitution, the European Contract for the suppression of terrorism, signed in Strasburg, in the 27th January 1977

extradition of a person "...prosecuted for his action for freedom"²⁵. This reserve contains a political aspect for the international scheming from which the country had a small price. It's notified that the continuing crisis at the Middle East was already "exported" to the rest European countries through several incidents, which brought juxtaposes even between European political parties. The fact that international terrorism acted solitary in Greece, preserved the country from serious adventures.²⁶

As for the Greek Parliament, terrorism acquired a strong political character strongly, dividing the political parties to the ones that "liked" it and the ones "against" its continuing action. In fact, not even one political party claimed not to condemn terrorism, since it first appeared in Greece. However, statements like that weren't quite acceptable by the Opposite parties. It had been often observed that, in spite of the condemning statements of one political party, the opposite party attacked phrasal, leaving the sense that those statements were just a political alibi.²⁷

In the case of the European Agreement, disagreements had a motive. One of the matters discussed at the Parliament was the "Maurizio Follini" case. The Italian government asked the extradition of M. Follini, an Italian citizen, accusing him of being a member of a terrorist organization. The Greek government denied, using article 1 of the European Agreement of 1977. In this case, the Public Prosecutor claimed that accusations against M. Follini referred to the Penal Law, while his lawyer claimed they were political crimes, therefore his extradition was forbidden.²⁸

The case of M. Follini wasn't the only one of that period. There was also the case of Mohammad Hamdan or Racid, whose extradition was requested by the USA government. He had been accused of placing a bomb on a Pan- American plane, on a flight from Tokyo to Honoloulou (11th August 1982). Both cases were discussed extensively at the Parliament, with intensities and juxtaposes between political parties.

²⁵ Parliament Proceedings, Session PIA', 22-4-1988, p. 5526

²⁶ For a more detailed approach, see Bossi M., *Greece and Terrorism. National and International Dimensions*, A. N. Sakkoulas ed., Athens 1996

²⁷ Parliament Proceedings, Session PIA', 22-4-1988, p. 5542

²⁸ Bossi M., *Greece and Terrorism. National and International Dimensions*, A. N. Sakkoulas ed., Athens 1996, p. 153

On June 1983, the Parliament unanimously accepted the International Agreement for Prevention and Punishment of Crimes Against International Protected Persons, including diplomats (N. 1368/ΦΕΚ, 89Α/8-7-1983).

The 80's have been extremely "active" for the international terrorism. The Achille Lauro case and the air raid of Israel against Tunis, occupied the UN.²⁹ Since intensities of this area were often "transported" in Europe, Greece had been one of the countries- receivers. The City of Poros case and a car explosion in Trocadero, Palaio Faliro, at the same day (11-7-1988), left open many questions on the real perpetrators of this terrorist attack.³⁰

The bomb explosion in Patras (19-4-1991) was another action with a serious political effect, causing a real problem to the Palestinians on their stay to Greece, except, of course, the number of victims (7 dead and 9 injured). While the PLO never took responsibility for the action, the Greek government massively expelled Palestinians from Greece.³¹ The case of Patras divided the Greek political parties, while the leader of the Opposition said: "If there's not an official excuse, our country is endanger to be accused of acting moved by criterions other than the public order- on which all political powers agree- while, at the same time, a fixed policy of all Greek governments and relations of decades between Greece and the Arabs are seriously tested".³²

Deportations of foreigners that were said to have participated in terrorist actions, especially those on which there weren't enough evidence, divided the opinions even more. Such cases were: Fuand Ambdahalal³³, Al Zomar³⁴, Maurizio Follini³⁵ and Mohammad Racid or Hamdam³⁶.

²⁹ United Nations Security Council Resolution 611, April 25, 1988

³⁰ Among others, also see Newspapers: *Eleftherotipia*, 13-2-1988, *Proti*, 16-2-1988, *Kathimerini*, 18-7-1988

³¹ Among others, also see: *Eleftherotipia*, 12-6-1991, *Independent*, 15-6-1991, *To Vima*, 12-5-1991

³² Newspaper *Ta Nea* 13-6-1991

³³ Also known as Sarah case, Newspaper *Eleftherotipia*, 9-7-1984

³⁴ Newspaper *Macedonia*, 7-12-1988

³⁵ Newspaper *Vradini*, 16-9-1987

³⁶ Newspaper *Ta Nea*, 26-4-1989

After the elections of 1990, the new government brought to the Parliament L.1916/90 “About restriction of publishing proclamations of terrorists or terrorist organizations”. The defensive proposal characteristically said that: “by this law, the state is attempting a slightest intervention in preventing the criminal action of terrorist organizations. The enactment of such a restriction aims to protect the society, the institutions and the citizens from the criminal activity of terrorists”.³⁷ L. 1916/90 was considered unconstitutional by the majority of the Constitution specialists, mainly because of art. 14, par 2 of the Constitution, according to which “The Press is free. Every censorship and preventive measure is forbidden”. Art. 14, par 2 defines the procedure and the reasons of prohibition in special cases.³⁸

The unconstitutionality of the proposal was discussed widely by the press, with articles and statements of Greek Constitution specialists. From the other hand, its political dimensions lead to its voting down by the majority of the Opposition. The Opposition focused their differentiation on the right of Democracy for defence, saying: “Democracy has the right to defend itself, but only by democratic means, not by degradation of itself or its institutions. If it does so, it abolishes itself. Because only by preserving itself can and worths to win the battle against its enemies. If it starts limiting, it will go downhill”.³⁹ The Opposition also said: “We understand the true intention of the proposal we’re discussing today. Despite of the intentions, voting such a proposal will cause problems to the function of the democratic institutions, especially the freedom of the Press, which our Constitution wishes to protect with a prohibitive provision”.⁴⁰

The differentiation of the Opposition contained the speculation of facing terrorism by limiting and evaluating it, rather than by taking ineffective measures. The government voted a proposal with no result, since it didn’t reduce terrorist actions. At the same time, it proved what was already known to the European countries: terrorist organizations seek for the cover of the Media, but that doesn’t define their activity.

³⁷ Parliament Proceedings, Session ΚΤ', 25-1-1990, p. 513

³⁸ The Constitution of Greece, Greek Parliament, Resolution Β' of the 6th of March 1986 of the ΣΤ' Revising Greek Parliament, p. 13

³⁹ Parliament Proceedings, Session Μ', 22-2-1990, p. 973

⁴⁰ Parliament Proceedings, Session ΚΤ', 25-1-1990, p. 517

This particular law had the propitious comments of the American Media.⁴¹ It's well known that the USA followed a very negative policy towards the countries with a socialistic government, with an independent foreign policy, with an anti- American oratory, with support towards the liberating movements, such as Greece of the 80's. On the contrary, when the Greek government began to agree with the American opinion, the American policy gradually changed

L. 1916/90 was repealed in 28-2-1993 with a simple phrasing. L. 2172 "about amending and substituting provisions of L. 1756/1988... Code of Court Organization and situation of juridical officials, the Code of Political Procedure, the Penal Code, the Code of Penal Procedure, and other terms", in art. 35 says: "L. 1916/1990, as amended by art. 4 of L.2145/1993, is repealed".

Next, in September 4 1990, with the procedure of urgent, the Parliament discussed the proposal "about bestowing pension and giving help to the victims of terrorism, amending terms of the Code of Penal Procedure and other terms".⁴² Bestowing pension and giving help to the victims of terrorism was ahead in Europe. From that point, Greece had to face that matter, since the number of victims of terrorism was increasing, although it remained much less than the European ones. The Opposition accepted this particular proposal without the usual intense.⁴³

The Confrontation of Terrorism as a Crime

It's worth to be notified that the lack of a definition for terrorism was a matter that occupied many times the Greek Parliament, since it was and still remains a matter of international speculation. It's also observed that even if there was an agreement on a law, this lack of definition lead to the division of opinions.⁴⁴

⁴¹ *New York Times*, 21-1-1990

⁴² Parliament Proceedings, Session IE', 4-9-90, pp. 2267-2292

⁴³ see Bossis M., "The Mysteries of Terrorism and Political Violence in Greece" in Van Leeuwen M. ed. *Confronting Terrorism, European Experiences, Threat Perceptions and Politics*, Kluwer Law International, 2002, pp. 129- 145

⁴⁴ Parliament Proceedings, Session IE', 4-9-90, p. 2270

The proposal “About protecting the society from organised crime” that was brought up to the Parliament- once again as urgent- on December 10 1990, was equating terrorism to organised crime, arsons, drug trading, arm transportation etc.⁴⁵ During the discussion, the obscurities and “arbitrarinesses” of the proposal were notified, while some years later the same thoughts became acceptable by everyone.⁴⁶ Questions as “what means, *preparation of a group of organised crime*” or “what means, *creator or leader of terrorist organizations*” weren’t answered by the law.⁴⁷ Respectively, the legislation was considered capable of facing terrorist arbitrarinesses.⁴⁸ So, at the time being, the “failure” of arresting terrorists wasn’t attached to a legislative insufficiency and a legislative settlement wasn’t considered necessary by the Opposition.

The differences between opinions originated from the ability of the current Penal Code to face terrorism. The main question was the nature of the criminal action and its division from common crime. L. 4229/ 1929, no 1075/ 1938 and no 509/ 1947 were considered very indulgent for confronting political crimes, which were often faced as common crimes. For example, no 509/ 1947 “about security measures of the State, of regime, the social regime and protection of the citizens’ freedoms”, in 2-1, says: “whoever tries to implement ideas aiming to the violent repeal of the regime, the current social system or the detachment of part of the state, or converts for their implementation, is punished by imprisonment, if he is a leader, of by imprisonment for life or death, on a more serious case”. L. 4229/ 1929 and no 1075/ 1938 include about the same provisions.

The question that occupied the Parliament for long was if terrorism is a crime. Crime is defined by the Penal Code (l. 1492/ 1950, art. 14) as: “Crime is an action unfair and imputable to the perpetrator, punished by the law”.⁴⁹ Since the phrasing allows many explanations, the differences in opinions, therefore in explanations,

⁴⁵ Parliament Proceedings, Session ΣΘ’, 10-12-90, p. 4548

⁴⁶ Parliament Proceedings, Session ΣΘ’, 10-12-90, p. 4559

⁴⁷ *ibid*

⁴⁸ *ibid*

⁴⁹ Manoledakis I., *Penal Law, Epitome of General Part*, Thessaloniki 1985, p. 174. Also Alexiadis S., *Criminology*, Sakkoulas ed., 3rd ed, Thessaloniki 1989, p. 72

included the “motive” and the “goal” of the action.⁵⁰ Since the terrorist action was perceptible as “a fairly political phenomenon”⁵¹, it couldn’t be equated to common crime. This particular conversation was to the front for several years, as expected to understand and specify terrorism in Greece. The differences observed these years mainly focused on the extensive opinions about terrorism, as they were perceptible by the members of the Parliament. In fact, their opinions were just expressing their political culture.

After arresting the members of *November 17th* and just before the trial began, this conversation came to front once more, aiming to analyze the phenomenon of terrorism, from the one side, while, from the other side, defining the “quality” characteristics of the accused. Trying to give an answer to the question “is terrorism a crime”, the Court of Appeal published an order, saying: “Political crimes are the ones turning against the State and trying to repeal and distortion of the *status quo*. All other crimes, even if the perpetrator was moved by his political ideas, are not political crimes. So, terrorist actions that harmed innocent victims or put in danger defend less people, combined with robberies etc, are not political but common penal crimes.”⁵²

During the preliminary examination and the “confessions” (which they revoked during the trial), no impact between the terrorist organization and the State revealed. “Confessions” seemed more like labour declarations with precedent mentions to partners and, also, like confessions of robberies, while there was notified a lack of ideological references.

As for the legislation, since a long time has passed, a new law was brought to the Parliament, which was, in fact, preparing the ground for future regulations about terrorism.

This draft (L. 2928/2001) “Amending terms of the Penal Code and the Penal Procedure Code and other terms for protecting citizens from criminal actions of criminal organizations” was considered to be one more supportive “instrument” for arresting terrorists. This particular draft was introduced in order to face organized crime, which, according to its sponsor “is a serious, sick social phenomenon. Human

⁵⁰ Panoussis J., *Modern Matters of Criminology*, Danias ed, Athens 1990, p. 150

⁵¹ Panoussis J., *Modern Matters of Criminology*, Danias ed, Athens 1990, p. 149

⁵² Newspaper *Kathimerini*, 5th of January 2003

value is composed by the gifts of life, personal freedom and honor. The organized crime attacks this lawful right, which is human dignity itself". It also says "the suggested regulations apply to all kinds of organized crime, which usually comes from crime organizations. A terrorist organization, as having a criminal character, is included to these regulations".⁵³

Since the draft refers mainly to crime organizations, the Opposition considered it doesn't juxtapose directly to terrorist organizations. The sponsor of the Opposition characteristically said: "New Democracy, following a consistent policy on the problem so far, will support the principles of this draft, if some necessary corrections are done, in order to be clear that were not after the organized crime, because we are either afraid or shy to go against terrorism. We make that clear because we think that, after so many months of expectation, this draft "sees" only towards the economical crime and not terrorism". And he continues: "The word "terrorism" is only suggested on page 2 of the draft, on a paragraph saying "... the suggested regulations refer to all kind of organized criminality, which means criminality coming from criminal organizations, regardless their name or their declared aims". Why not telling directly that terrorism does exist in Greece, therefore we have to bring up laws to fight it. The draft only refers to the income of drug- dealing and pimping, not to terrorism". Next, the Special Lecturer of the Communist Party, after saying, "forget about trading of ideas with this law", asked, "who will be baptized terrorist". And, continuing "with this law we can't possibly convince people that we're determined to arrest the mind of "17N", by turning all Greek citizens into possible suspects. On the contrary, citizens will be terrified and terrorists will know that participation to the main action won't be punished, if someone manages to denounce. We'll find ourselves in front of a huge army of criminals who will turn themselves to professional informers, under the protection of the Greek state. We will legalize the "black hood" and we will end up seeking for the legal civilization, fighting for his non- implementation".

The Special Lecturer of the League of Left and Progress was also categorical, saying that: "Personally, I'm not yet convinced that the current legislation is responsible for not arresting terrorists. I'm certain that no term has been preventive.

⁵³ Greek Parliament, Period I'- Session A', Continuous Committee of Public Administration, Public Order and Justice, 29/ 30/ 31 March, 2001

The only responsible is the Greek Police, who has been ineffectual and its investigations have been orientated one- sided”. Next, he said: “Firstly, we must confess our resistance to foreign pressure has changed and it’s certain that this draft is an attempt of adaptation of the USA orders. Our law is collapsing and, further more, its values are collapsing as well”. Then, he notifies that: “The shameless title of this draft can’t justify the insult against the values and principles of our law system, concerning personal freedom and fair trial”. The government answered to all these through the responsible minister: “Many people claim that it’s different to participate to a speculative criminal organization than to a terrorist one they are right up to a point. That doesn’t mean that these two organizations don’t have common characteristics, which justify common rules. We believe that such crimes can be judged only by regular judges. Simple participation, psychological and material support before the crime, such as the active participation to a criminal organization, as far as terrorist organizations are concerned, shouldn’t be penalized. Otherwise, there’s a danger of penalizing attitudes with clear political motive but don’t get to the point of the active participation to such organizations. Of course, I refer to a more indulgent treatment of a terrorist organization compare to a speculative criminal organization. Motives are very important. It’s different being a profiteer slaver than dreaming to change the society. That’s our opinion on a more indulgent treatment of a non- speculative criminal organization”⁵⁴.

The “preparation” of the public about terrorism (L. 2928/ 2001) followed a series of publications from the friendly to the government Press, who lasted for about six months. After an “unsuccessful” action on 29th June 2002, the terrorist organization 17N, began the ending of its circle of activity in a way rather unexpected, compared to its profile.

As written before, the members of the organization showed many “faces” from their arrest till the trial, mainly by expressing many different opinions and ideologies. The only exception was an “executing organ” (D. Koufodinas), whose defense was an attempt of answering the “grey” parts of the organization’s presence, along with

⁵⁴ Greek Parliament, Period I’- Session A’, Continuous Committee of Public Administration, Public Order and Justice

fixing its ideological profile, which was vilified by the “confessions” of the other members.⁵⁵

The interesting aspect of arresting the terrorists after the 11th of September and before the Olympic Games of Athens, support those who claim that the circle of action of the specific type and ideology organizations was “done”. The televisions cover of the arrest of the 17N member, the long discussions of “specialists”, the lack of knowledge in broadcasting the news, the surprise caused by the “testimonies” of the prisoners, the blanks and the possible omissions on a case that came to light 27 years later, appointed a new area of interest, which has to do with the televisions cover of the terrorists’ trial of its prohibition.

The ministry of Justice formed a new term about forbidding the radio-television broadcasting, which reminded a similar law of the past. The difference between them is that the great parties of the Parliament agreed to that, while the rest disagreed claiming that such a prohibition would create suspicion and disposal of a myth-taking character⁵⁶. It’s interesting that even the Prime Minister of the country was against its broadcasting, during an interview for the Union of Foreign Reporters, “because it might affect the court’s judgment”. He even evoked the example of most European countries and the USA, where such prohibition is current. The government said: “the court will decide”.⁵⁷ The law was out voted by the Parliament on December 2002, while the small parties differentiated.⁵⁸

After L. 2928/ 2001 another anti- terrorism draft was brought up, which would face directly the terrorist offences. The new law (L.3251/2004) named: “European Arrest Warrant and the confrontation of Terrorism” was harmonized to the Decision-Context of the European Union against Terrorism, of the Council of Ministers (June 2002).⁵⁹ In this particular law, there’s an attempt of defining terrorist actions under

⁵⁵ Bossi M., “*Terrorism*”, in Review 2003 of Defensive and Foreign Affairs, ΕΛΙΑΜΕΠ, Th. Kouloubis, Th. Dokos, A. Kibidis (ed), Papazisis ed, Athens 2003, pp. 27- 39

⁵⁶ Newspaper *Eleftherotipia*, 11-12-2002

⁵⁷ Newspaper *Eleftherotipia*, 19-12-2002

⁵⁸ Newspaper *Ta Nea*, 14 & 15-12-2002

⁵⁹ Simeonidou-Kastanidou E., *Organized Crime and Terrorism*, Sakkoula ed, Athens-Thessaloniki,2005, p.107

the following grounds “the performance of one or more crimes from the contents of the familiar list (the “familiar list” was forming when the paragraph was written) is punished, when it takes place with a way or on a range or under such conditions, that can harm a country or an international organization. Subjectively, when the perpetrator aims to the serious intimidation of people or the illegal enforcement of a public authority or an international organization to an action or its avoidance, or the serious destabilization or destruction of the fundamental constitutional, political, financial or social structure of a state or an international organization”.

The law refers to the “penal sense of the terrorist organization”, something that had never happened in the past, as to the punishment of anyone thinking to preserve or create new criminal organizations- copies of the old- type ones. A special paragraph says that civil rights, as described at the Greek Constitution or the European Convention of Human Rights, are not limited. At this new draft, the terrorist action is approached respectively to the European countries, the USA and the UN. The particularity of its expression leaves many questions about people, whose actions could match to terrorism. This semantic blank allows the prosecution of any action that may possibly object to the current opinion about terrorism, even if its conditions or causes are not clarified. The phrasing of the new law, in fact, belongs to a series of discussions that had precedent at the European organs, where the British, the German and the Spanish opinions were also important, for different reasons and from a different starting point, that finally converged.

CHAPTER FOUR – THE ANTI-TERRORISM APPROACH OF THE UNITED STATES

Terrorism as a Parameter of American Foreign Policy

Starting from the 70's, the USA gradually formed the international opinion on terrorism, which was going to show their power years later. Beginning from the ex-president Reagan, the time gradually formed includes terrorism to the field of security, passing by the opinion on a simple national problematic on terrorism.⁶⁰

Sequential terrorist actions took place, often of an unknown origin. The bombing of Tripoli (Libya) from American aircrafts in 1986 was the result of the American preventive measures on a possible terrorist activity on behalf of Kantafi's government. The hard -line American foreign policy of that time, couldn't detect the possibilities of an interior danger, but encouraged with various methods the international community to share their opinion on the international terrorism. The impact of the "list of states- terrorists", who preserved and financed terrorism, according to the Americans, began to spread among the accused countries and, also, the European countries- receivers.⁶¹

The American policy on terrorism became a primary factor of "formation" for their foreign affairs and, next, a ruling mater of security. At the same time, its pressure towards the states- members of the UN were escalated, in order to accept common institutional decisions on its facing. The pick point of the American pressures was that terrorism is a crime. On that base worked sequentially the building of the double speculation that, since terrorism is a crime, then terrorists are criminals and, since the main victims are American citizens, then the USA is an "innocent

⁶⁰ Wieviorka M., "Defining and Implementing Foreign Policy: The US experience in anti-terrorism", Alexander Y. and Foxman H (eds), *The 1988- 1989 Annual on Terrorism*, Kluwer Academic Publishers, 1990, pp. 171- 172

⁶¹ The list of the State Department exists since 1979, including 7 countries (Libya, N. Korea, Lebanon, Syria, Iraq, Iran, Cuba), which in the USA opinion are considered to assist- conserve- finance terrorism

victim". This particular speculation, in fact left unharmed the American participation to various actions, like, for example, the Iran- Contras case.⁶²

The pressures to countries- allies started as warnings, while, next, they took the form of "punishment". Greece was "punished" many times for her "tolerance" to "terrorists". Punishment, apart from diplomatic pressures and negative publications of the Press, took the form of traveling directions, which harmed the country financially. The results of the international pressures by the Americans often promoted positively their policy, which developed constantly towards one- sidedness, being orientated to matters of facing the international terrorism.^{63 64}

During the 90's, the diplomatic use of terrorism took extensive proportions and a substantial turn to its establishment as a ruling matter of international security.

The policy of the USA towards Greece has been extremely mordant on the matter of the interior phenomenon of terrorism, since among the victims of the Greek terrorist organizations were some Americans. So, during these 27 years of activity for the terrorist organizations in Greece (RO17N, RPF and a series of other less important) the USA brought out about 12 traveling directions, which cost the country plenty valuable exchange, since an important part of the Greek economy leans upon tourism. When on January 14, 2003 the State Department brought out "an informing document for American travelers, with the notification of the possibility of terrorist actions against American commercial targets, and the further notification that there are no particular threats against American citizens traveling alone", there was an objection by the Greek side. To their request on removing from the American document the mention to the "possibility" of terrorist actions, the American ambassador in Athens answered that the document is not a traveling direction, but just an informing document.⁶⁵

⁶² Wieviorka M., op. cit. pp. 180- 181

⁶³ Bossi M., *Greece and Terrorism*, op. cit. p. 185

⁶⁴ On March 2003, the USA published a "suggestion" for avoiding trips to Greece, using as an excuse the coming war against Iraq, Newspaper *Eleftherotipia*, 7- 3- 2003

⁶⁵ Newspaper *Eleftherotipia*, 17- 1- 2003

The Policy of the USA after the 11th of September

The 11th of September 2001 was established as a landmark in world history. Astonishment, fear, terror, panic but, also, the question for the causeless attack, immediately gave their place to a political and strategic practice that left open many questions with its imminence.

The imminent military intervention of the USA to Afghanistan and the bloody combative operations for confrontation of the Taliban's regime and the tracking of the number one enemy, Osama Bin Laden, did change the regime of the country, but they had absolutely no results, concerning the second leg of the operation. On a national level, the USA made very important changes, which will affect all democratic states of the planet in the future. At the first official speech of the American President after the attack, was introduced the decision on an endless and merciless war against terrorism and its defenders.⁶⁶

The American President's speech initiated a series of actions and changes on the level of the national intelligence services, aiming to reinforce them, in order to be able to prevent a future enemy activity in the country. The National Security Council was at the head of *Counter- terrorism and Security Group* (CSG), a mechanism that cooperates with all services, relevant to the national security of the country. Since then, this council holds a meeting almost on an every- day basis, aiming to the cooperation and the prevention of future attacks.

After the 11th of September, the American government took a series of measures, in order to prevent the financial support of terrorists. On the 23rd of September 2001, the American President signed the "Executive Order 13224" (respective to the Presidential Decree), allowing the Ministry of Finance to stop conciliations between individuals or institutes related to terrorists or terrorist organizations. This particular decree "allowed" the "enlistment" of twenty-one organizations to the list of terrorist, although they had no involvement to Al- Qaeda,

⁶⁶ President's Address to a Joint Session of Congress and the American People, United States Capitol, Washington, D.C. 20 September 2001, Appendix E, Patterns of Global Terrorism 2001, United States Department of State, May 2002

while, at the same time, it put an ending to the conciliations of sixty- two organizations and individuals, related to the financial- credit foundations, *Al Barakaat* and *Al Taqwa*. On the 4th of December 2001, the USA blocked all conciliations of three financial conveyors, for which they thought to support the organization *Hamas*. It's about the: "*The Holy Land Foundation for Relief and Development*", "*Beit el- Mal Holdings*", "*Al- Aqsa Bank*". At the end of December 2001 and the beginning of January 2002, fifteen organizations and individuals were added to the list, including some that resided in Pakistan, Afghanistan, Spain and North Ireland.

The moves of the American government brought immediate results, some of which are indicatively written below:

- The blocking of \$33 million, belonging to the organization of the Taliban and the Al- Kaida,
- The blocking of another \$33 million belonging to collaborationist countries,
- The forming of the Foreign Terrorist Asset Tracking Center, aiming to inform on the problem and activate the investors, to convince them cooperate with the authorities.

The American Congress gave the necessary authority to the Antiterrorism Assistance (ATA) Program of 1983, in order to proceed with the necessary actions to face the international terrorism. Part of their actions is the rendering of training to collaborationist services, working on the same matter.

Another program that was activated is the *Rewards for Justice Program*. It was formed in 1984 (1984 Act to Combat International Terrorism, Public Law 98-533) and controlled by the Direction for the Security of the Diplomatic Body of the Ministry of Foreign Affairs of the USA. To program has the ability to offer up to \$25 million for information that will lead to the arrest of Osama Bin Laden.⁶⁷

⁶⁷ this particular legislation is considered to have a special interest, since many students, originating from states which are considered "suspects" for the American authorities, are staying in the USA legally or under the regime of temporality. The program and the amount

Decision no1373 of the Security Council of the United Nations, which was voted on the 28th of September 2001, requests that all states should prevent and punish the financing of terrorist organizations and, also, deny the grant of asylum and safe haven to the terrorists. Respectively, the team of G- 8 agreed to cooperate with the committees of the United Nations and provide the necessary technical support for the realization of UNSCR 1373

The implementation of the US law, 18 USC 1203 (Act for the Prevention and Punishment of the Crime of Hostage- Taking), which was voted in 1984, was reinforced in order to be adapted in case of necessity, right after the ratification of the equivalent one of the UN.

During the process of fighting terrorism, the American government formed four lists “tools”, in order to reinforce the effectiveness of its attempt: *The State Sponsors of Terrorism, Foreign Terrorist Organizations (FTO), Executive Order 13224, The Terrorist Exclusion (TEL)*. These particular reports are very interesting, since the lists refer to plenty organizations of all categories, that are reported as terrorist. That fact is the beginning of many different opinions on the future confrontation of these organizations, and also the countries where they are activated.

On the 26th of October 2001, the American President signed a new anti-terrorist law, known as *USA Patriot Act* (Public Law 107- 56). The new law worked additionally to the previous *Antiterrorism and Effective Death Penalty Act of 1996*, the well- known *Helms- Burton* law.⁶⁸ The *Patriot Act* formed another list of organizations and individuals that, according to the opinion of its authors, are connected to the international terrorism, and keeps the right to arrest or deport anyone the law considers to be involved with international terrorism.⁶⁹

of money encourages the “supply of information” even for no reason, something that has cause an confusion to the Muslim Americans.

⁶⁸ For an analysis of the law, see Bossi M., *Matters of Security in the New Order of State*, Papazisis ed, Athens 1999, pp. 74- 76

⁶⁹ *Patterns of Global Terrorism 2001*, United States Department of State, May 2002, pp. 133- 152

On the 26th of July 2002, a new law was voted, entitled *Homeland Security Act of 2002*.⁷⁰ It was enriched and more powerful and gave the authorities the ability to act almost uncontrolled, using as an excuse the protection of the country from possible terrorist actions. This particular law led to the formation of a special service, which will be staffed by individuals of special train to the fight against terrorism. Respectively, American intellectuals raised their voices against the official governmental opinion, but, since they were the minority, there was no possibility to be heard.⁷¹

The 11th of September 2001, as said before, remains the landmark for many of the developments in the international system. The American government strained the international pressures based on a specific strategic planning. That way, the “war against terrorism” took special proportions, while the governmental committees took the responsibility of checking the aspects of a possible prevention of the terrorist action of the 11th of September, through the information of the security services. To that direction, the Senate appointed a Public Committee, consisted of specialists and members of the security services,⁷² which analyzed all available information since the beginning of the 90’s, connected to a possible terrorist attack. The results of the investigation were half- published, under the grounds they were state secrets, but they gave the opportunity for some Press- articles to speak of hiding evidence able to prove there had been enough informing and warning facts, that could have lead to the prevention of the 11th of September.⁷³ The Report of the Committee was considered, partly, important for the unity of all American political parties on the matter of terrorism, but they didn’t prevent the President from implementing all decisions he had taken along with his staff. Part of these decisions was the forming of an internal mechanism of security, according to law *Homeland Security Act of 2002*, with the

⁷⁰ Bill Text, H.R. 5005. Version: Engrossed (Passed) in House, 107th Congress, 2nd Session, Homeland Security Act, July 26, 2002

⁷¹ Interviews of Noam Tsomski and Igor Vibidal, as respectively published on the newspapers *Eleftherotipia* and *Vima*, January 2003

⁷² Joint Inquiry Staff Statement, Part 1, Eleanor Hill, Staff Director, Joint Inquiry Staff, House and Senate Intelligence Committee, September 18, 2002

⁷³ Prothero Mitchell, “Administration won’t release 9- 11 data”, Washington Politics and Policy Desk, 18 September 2002

hiring of 170.000 persons occupied with the alertness in matters of terrorism. Essentially, their job is to watch “suspects”, to arrest and secretly (unknown to the public) imprison them, without the right to an attorney or even a trial. As far as the accused as members of the Al- Qaeda network are concerned, the American Pentagon gave to publicity some details about the composition and the function of the court-martials, which will trial the prisoners for the terrorist attacks of the 11th of September 2001. For example, it’s referred that the courts composition will include 3- 7 military officers, the decisions will be final and they won’t have the right to appeal.⁷⁴

At the same time, the American government asked the foreigners that live in the country to come to the authorised federal services, where they were enforced to answer a questionnaire, to take pictures, to give their fingerprints, in order for the future terrorists to be detectable.⁷⁵ The listing of the foreigners started after the order of the American minister of Justice and it concerns all individuals from 16 years old and up. In case the foreigners don’t conform to the order, they will be expelled from the country. *“Lawyers that are defending the rights of the immigrants said that this undertaking has caused a wave of fear between the communities of the immigrants, while they question the effectiveness of this measure, at least as far as the matter of making the USA safer is concerned. At first, the ministry of Justice called citizens from Iran, Iraq, Syria, Libya and Sudan. This list was expanded after the 6th of November, in order to include Afghanistan, Algeria, Bahrain, Eritrea, Lebanon, Morocco, North Korea, Oman, Qatar, Somalia, Tunisia, the United Arab Emirates, and Yemen. There were also added citizens from Pakistan, Armenia and Saudi Arabia”*.⁷⁶ The Media, which are controlled by specific “centres of power” of the USA, had an important role to the forming of a climate proper and tolerant for taking measures against terrorism.⁷⁷ These particular “centers” are friendly to each

⁷⁴ Athens Associated Press, 22 March, 2002

⁷⁵ Newspaper *Eleftherotipia*, 19- 12- 2002

⁷⁶ Newspaper *Eleftherotipia*, 19- 12- 2002

⁷⁷ On the 1st February 2003, was known, through the Greek Press, the forming of a new intelligence service, the Terrorist Threat Integration Center. The Center will consist on branches of the governmental services and will be the central base, in which all information on terrorist threats will be analyzed and assessed. The Center will be directed by a supreme

government, since the information they offer is connected to their financial interests. For example, the anti- governmental demonstrations during the Iraqi war, that were the largest after the demonstrations against the war of Vietnam, weren't covered properly by the American Media.⁷⁸

The international community didn't essentially face the opinion of George Bush jr. that on the matter of terrorism, the rest states are "*with us or with the enemy*", but it kept groveling, pervading the international legal frame.⁷⁹

The suspicion and the mistrust caused by the strain of the American threats and the counterblasts of the terrorists of the Islamic extremism (the TV channel of Qatar, Al Jajera, was broadcasting messages, expressing the points of the "other side"), didn't find a way out to a speculation on the cause of forming extremist problems under the form of disproportionate threats, but just on the international encouragement for fighting an "*invisible enemy*". The European Union released an announcement of the 15 ministers of Foreign Affairs, expressing its "greatest support to the USA", declaring its willingness of giving support to all sections "to prevent similar facts" in the future.⁸⁰

At the same time, on an opinion poll in the USA (six months after the attacks), none over ten American citizens supported the war against terrorism, but much fewer thought possible the arrest of Bin Laden (opinion poll by the *USA Today/ CNN/ Gallup*). A percentage of 55% of those asked, expressed their trust to the capability of the USA to arrest Osama Bin Laden, while on a equivalent questionnaire of November 2001, to percentage was 78%. Finally, 72% supported the undertaking of arresting terrorists even out of Afghanistan, like in Philippines and Yemen.⁸¹

officer, who will report directly to the director of the CIA. Newspaper *Ependitis*, 1-2 February 2003

⁷⁸ Newspaper *Ta Nea*, 20- 1- 2003

⁷⁹ For a further approach, see Bossi M., "11th of September: the Historical Print of a Semantic Development", List IBIDIS 2001- 2002, Perrakis St. (ed), Ant N. Sakkoulas ed 2003, pp. 139- 151

⁸⁰ Newspaper *Eleftherotipia*, 12- 3- 2002

⁸¹ French Associated Press, 12- 3- 2002

It's worth to be notified that the national legislation of the USA has changed in many important points, especially concerning the arrests of members of terrorist organizations, more specific the members of Al- Qaeda, who will be sent to court-martials, without the right to appeal. The American Pentagon released the composition and function of the court-martials, which will trial the arrested as accomplices to the attack of the terrorist action of the 11th of September.⁸²

From the other side, the *Report of the United Nations* seems of a special interest, since a committee of specialists, regarding the situation of the Al- Qaeda network has composed it. The Report say that the training camps are operating again, that many volunteers are joining, while the network has also the ability of getting nuclear material, in order to create "*some sort of a dirty bomb*".⁸³ The Report detects the new abilities, the activity of the new volunteers, their training camps, found once more on an Afghanistan ground, their action spreading to many places of the world, as well as the future danger, expressed by the continuation of the extremism opinions. Furthermore, if we have in mind the extended undertaking of the American army (*operation "Anaconda"*) in Afghanistan for the detection of the members of the terrorist network of the Al- Qaeda, it will be proved once more that combative operations can't possibly put an ending to human willingness, no matter how wrong it might be considered.⁸⁴

It is now completely obvious that the discussion about prevention of the causes of terrorism remains to the level of general declarations and wishes, having no practical meaning at all. Therefore, facing of the phenomenon internationally shows an important lack, as far as its rational base is concerned. Avoiding facing the causes of terrorism we can only ensure its continuation. The statement of the Secretary General of the UN, Cofi Annan, during the session of the United Nations in Monterey (Mexico) that "*poverty gives birth to terrorism, or at least protracts it*" is characteristic.^{85 86}

⁸² Athens Associated Press, 22- 3- 2002

⁸³ Newspaper *Eleftherotipia*, 22- 3- 2002

⁸⁴ Newspaper *Ependitis*, 16-17 March 2002

⁸⁵ Newspaper *Eleftherotipia*, 22- 3- 2002

CHAPTER FIVE – THE IMPACT AND ROLE OF THE UN AND THE EU IN THE DEVELOPMENT OF ANTI-TERRORIST LEGISLATION

The United Nations

The Organization of United Nations and the Security Council were activated and reacted with decrees, condemning terrorism and suggesting measures for preventing its actions. For example, some of the Agreements of the Organization have been a result of international terrorist facts, mainly turned against American and Israeli targets, installations, diplomats, representatives of the armed forces and citizens. For too long the air piracies, the damages on planes and the attacks on airports had been part of the international terrorism. As a result, a special attention was shown on Agreements referring to civil aviation and to the cooperation between states for the prevention of terrorist acts.⁸⁷

When the Islamists occupied the American embassy in Tehran, in 1979, at the same year the *International Agreement against Taking Hostages* (New York, 17th December 1979) was voted. The *Aquile Lauro* case, which took place in 1985, finally

⁸⁶ Since there isn't a commonly acceptable term by the EU countries, the USA have formed many terms. One of them is used by the State Department, as the most correct. Here is how they are phrased in Title 22 of the United States Code, Section 2656f (d): "*The term "terrorism" means premeditated, politically motivated violence perpetrated against non-combatant targets by sub national groups or clandestine agents, usually intended to influence an audience. The term "international Terrorism" means terrorism involving citizens or the territory of more than one country. The term "terrorist group" means any group practicing, or that has significant subgroups that practice, international terrorism. The US Government has employed this definition of terrorism for statistical and analytical purposes since 1983*". United States Department of State, May 2002, p. xvi

⁸⁷ Significant International Terrorist Incidents, 1969- 1981, Department of State, Washington D.C., 1982

“participated” along with other penal terrorist actions to the *Agreement of Rome* (10th March 1988).

The terrorist events of the 60’s, 70’s, and 80’s were many more than those that followed. In spite of these, although the number of terrorist acts was smaller, the number of victims was larger. Greece has accepted most of the Agreements of the Organization, following the continuous rising course towards the confrontation of terrorism.

In the case of 11th of September, was established the ability for an immediate reaction by the Organization, since the fact itself and the huge number of victims didn’t allow any delays. The Security Council of the United Nations, right after the 11th of September, adopted three important decisions: 1368 (UN, Security Council Resolution 1368 (2001), September 12, 2001), 1373 (United Nation Resolution 1373 2001) and 1377, which:

- Allow the states to take use of their self- defense right
- Report that terrorism is a danger to international peace and security
- Indicate the important contribution of the supporters and the perpetrators of terrorist actions
- Force the states- members to limit the ability of terrorists and terrorist organizations of an international activity, by blocking all financial dealings that are related to terrorists and their organizations
- Deny the grant of place for stay to individuals or organizations associated with international terrorism.

The Security Council formed the Counter Terrorism Committee (CTC) in order to supervise the realization of the decision no 1373 of the Security Council of the UN. The states- member of the UN have the responsibility to send to the Committee their reports about the measures they take for facing terrorism, which must refer to seven important issues: legislation, financial control, customs, immigration, expels, authorities and arm trade. The General Assembly of the UN adopted two anti- terrorist decisions, which condemned the acts of terrorism of the 11th of September in Washington D.C., Pennsylvania and New York. The General Assembly continues to

support the negotiation work of the international conferences on terrorism. Until today, the UN has adopted twelve conferences.

The Secretary General of the Organization, Cofi Annan, condemned several times all terrorist actions, like those of 11th September 2001, on a series of speeches: “All nations ought to feel joint to the victims of terrorism, determined to act against terrorists and against all those who protect them, support them financially or encourage them”.

Special services of the United Nations, like the International Civil Aviation Organization (ICAO) and the International Maritime Organization (IMO) adopted equivalent decisions, forcing their members to take measures for the limitation of the terrorist actions. The International Committee of Atomic Energy, an autonomous organization connected to the United Nations Organization, adopted a decision which suggests measures for the protection against actions of nuclear terrorism and develops a program, which aims to improve the security of states with nuclear installations.⁸⁸ It is worth to notify that all decisions of the Organization, that were made after the 11th of September, are supplementary to many previous others, which were about facing terrorism.⁸⁹

The European Union

The European Union has proceeded with many regulations on terrorism during the 90's, mainly due to the increased pressures from the USA. So, within a European frame, rapidly proceeded with the European Arrest Warrant, which is a court decision taken by a state- member, aiming to arrest and deliver to another state- member an

⁸⁸ Patterns of Global Terrorism, 2001, United States Department of State, May 2002, p. 155

⁸⁹ For a further approach to the decisions of the UN about terrorism, see Bossi M., *Defining Terrorism*, op. cit, pp. 93- 102

individual wanted for prosecution or for execution of a penalty or for loss of his freedom.⁹⁰

The meetings and the decisions of this nature were increased after the 11th of September 2001, but, as previously told, they have existed a long time before that, by the form of proposals introduction. One of the first texts was about the “quick exchange of information about terrorist actions”.⁹¹ The international “embarrassment” caused by the terrorist attacks of the 11th of September, was the spark for further cooperation with the USA for the confrontation and combating of terrorism in multiple levels.⁹² The differences of the past between the USA and the EU after the 11th of September seem to gradually lack, as the mention of American measures and institutions at the texts are more and more often.

Respectively, we observe that discussions of the past regarding issues about “political opinions”, “political activity”, “action about freedom”, “fight for freedom”, etc, which were the peak for many political parties, lost their value and “hibernated” due to the facts of the 21st century. On the 27th of December 2001, another decision of the European Parliament referring to measures of combating terrorism was added.⁹³ This decision reports for the first time the terrorist organizations and suggests the constant cooperation between states- members and the exchange of information on the reported terrorist organizations.

⁹⁰ Article 1 of the, since 10th of December 2001 proposal, decision- frame of the Council of the European Union

⁹¹ The last decision was before the 11th of September 2001. It was a Note of the Belgian Chair to the “Committee of Art. 36”, about the “*rapid exchange of information about terrorist actions*”. Council of the European Union, ENFOPOL 69, 10524/ 5/ 01, REV 5, Brussels 17 September 2001 (18.09). Before that, there was the: 10524/ 4/ 01 ENFOPOL 69 REV 4

⁹² EU judicial cooperation with the United States in combating terrorism, European Parliament resolution on EU judicial cooperation with the United States in combating terrorism, B5- 0813/ 2001, The European Parliament, 13/ 12/ 2001

⁹³ European Parliament resolution on the Council’s decision of 27 December 2001 on measures to combat terrorism, Decision taken on 27 December 2001 on measures to combat terrorism, P5_TA (2002)0055, B5- 0100/ 2002, Minutes of 07/ 02/ 2002

The next decision refers further to the confrontation of terrorism, while it indicates the connection between terrorist organizations and trading of drugs and weapons.⁹⁴ The decisions of the EU are increasing and this wide production of decisions about the matter of terrorism is impressive for the history of the organs of the EU.⁹⁵

Within this frame, the beginning of discussions about extraditing Greek terrorists, who were involved to assassinations of American citizens, didn't bring up the objections such a demand would cause a few years earlier. In 2002 began the discussion between the European Union and the USA regarding the plan of legal support on extradition- delivery of the accused for terrorism. The plan refers to non-political crimes as well, either they have prescribed by the national legislation or not.⁹⁶ Practically, it cancels the meaning of the political crime or the political meaning of terrorism, while the opinion that all offences are penal comes forward. Under the grounds it's been set, as shown by the Greek Press, it's said that: "the accused will be given over to the USA, he will be on trial there and then he will return to Greece to fulfill his punishment. When he is released, he will be lead to the American prisons in order to serve there his "American" punishment".⁹⁷ The matter that interests the Greek side is the matter of the prescription of the first offences of the RO17N, as the assassination of the American officer of the CIA, Richard Welch (December 1975). The prospects of the legal support plan open a new chapter of interest between the USA and the states- members of the European Union.

⁹⁴ European Parliament resolution on "Assessment of and prospects for the EU strategy on terrorism a year after 11 September 2001", Combating terrorism, P5_TA- PROV (2002)0518, Minutes of 24/ 10/ 2002

⁹⁵ Indicatively reported: European Parliament legislative resolution on the proposal for a Council decision on the financing of certain activities carried out by Europol in connection with cooperation in the fight against terrorism (COM(2002)439- C5- 0471/ 2002- 2002/ 0196(CNS)), Financing of certain activities carried out by Europol, P5_TA-PROV (2002)0581, A5- 0391/ 2002) and (New functions for the Schengen Information System (Decision), P5 TA- PROV (2002)0610, A5- 0436/ 2002

⁹⁶ Newspaper *Kiriakatiki Eleftherotipia*, 8- 12- 2002

⁹⁷ *ibid*

On the 25th of June 2003, the European Union and the United States of America signed two Agreements about the extradition and the mutual legal support.⁹⁸ The Greek Chair of the European Union has been the one to answer to the American pressures about the extradition of European citizens to the USA “condemned or acquitted by courts of states- members of the European Union. The agreement is expected to have a retrospective validity, while the extradition is not prevented by the fact that the death penalty is current in the USA, nor by the fact that the institutional principals of the state towards the application goes possibly prevent the extradition, since that’ s something that can be also detoured by consultations”.⁹⁹ Their objection to the hallmark of the Agreements, except from oppositional left political parties of the Parliament, also expressed the majority of distinct Greek lawyers and other representatives of the academic community: “The text of the Agreement establishes a serious threat against quintessence of our legal civilization, which is based on the complete respect of the human rights and the human value. This threat gets even more aggravated due to the attempt to implementing them in a new way. More specific, the text of this Agreement is expressed by a carefully planned obscurity at its crucial parts, which deliberately gives the ability of getting- around, or even abolishing historically established regulations of law, which protect exactly the personal freedom and the value of people. Do, by this suggested text, we are dealing with a new form of covered subversion and reversal of the vested of our legal civilization. Also, this new form of expressing legal regulations as contents of an international Agreement is further more frustrating because through it is attempted the misleading of the citizens and the public opinion in general”.¹⁰⁰

Professor Alice Maragopoulos, president of the Maragopoulos Foundation for the Human Rights, and the National Committee for the Human Rights also declared

⁹⁸ Council of the European Union, Legislative and other Actions, Issue: Agreements between the European Union and the United States of America about the extradition and the mutual legal support, Brussels, 3 June 2003, (OR. En), 9153/ 03, CATS28, USA 41.

⁹⁹ Kouvelis Fotis (Member of the Parliament, Athens B’ section, League of Left and Progress), Timely Question to the Prime Minister about: “*Agreement about extradition between the USA and the European Union*”, 9 June 2003

¹⁰⁰ Magakis George- Alexander, “*An anti- terrorist Contract that terrifies*”, newspaper *Eleftherotipia*, 10- 6- 2003

their objection on Agreements.¹⁰¹ Professor K. Beis, analyzing the contents of the Agreements, adds: “The achievements of the state of law, such as respect to the human value, as the fundamental mission of every civilized state, and also the active legal protection of the fundamental rights of people and citizen, keep collapsing, under the unbearable pressure of the only global superpower”.¹⁰²

The Prime Minister and Chairman of the EU expressed a different opinion, defining that there won't be any problems between the USA and the EU in matters of extradition, due to a possible different explanation of the term “terrorism”. Mr. Simites said: “I don't accept that. If someone reads the Agreement he will see it's perfectly clear that, it's not up to the ministry to decide who is going to be extradited, or even up to some members of the government, but there will exist a code, there will be rules, legal regulations that can be implemented”.¹⁰³ The minister of Justice, who was in charge of writing the texts of the Agreements, defended them saying that “... without them the legal protection would be reduced and imperfect”, since they make the battle against the international crime “... more affective” and “they completely ensure the European vested on human rights and the fundamental values of our legal civilization”.¹⁰⁴

The two Agreements signed by the chairman of the EU, the Greek Prime Minister, except of the fact of their litigation of the political parties of the Parliament, part of the government,¹⁰⁵ the International Amnesty¹⁰⁶ and almost all lawyers of the country, was also litigated by the European Parliament.¹⁰⁷ Despite all these, it's worth to be notified that, as a legal action, the extradition of citizens towards the USA has already been done in some European states- members of the EU.¹⁰⁸ For example, the

¹⁰¹ Interview of Professor Alice Maragopoulou, newspaper *The Avgi*, 19- 6- 2003

¹⁰² Beis K., “Extradition to the USA and lack of the state of justice. Abolition of the Constitutional Legal Order”, newspaper *Eleftherotipia*, 25- 6- 2003

¹⁰³ Newspaper *Eleftherotipia*, 26- 6- 2003

¹⁰⁴ Newspaper *Eleftherotipia*, 11- 6- 2003

¹⁰⁵ Newspaper *Eleftherotipia*, 12- 6- 2003

¹⁰⁶ Newspaper *Eleftherotipia*, 7- 6- 2003

¹⁰⁷ EU C 177E of 25/ 07/ 2002 p. 288, PE 332. 951u95, 2003/ 2003 (INI)

¹⁰⁸ Newspaper *Eleftherotipia*, 8- 6- 2003

British antiterrorism legislation (“*Terrorism Act 2000*”, “*Anti- Terrorism, Crime and Security Act 2001, Terrorism Act 2006*”)¹⁰⁹

The two Agreements between the EU and the USA, which were signed by almost all the European states, provoked the general objection of the Greeks, something that didn't occurred to the rest European countries. In Greece, the “concern” of the lawyers and political persons, who expressed their objections, was also based on the revealing anti- constitutionality of the Agreements, especially the one that allows the extradition of citizens to the USA. Except of the revealing “*abolishment of the constitutional legal order*” as Professor Kostas Beis analyzes in his article,¹¹⁰ also the question that the member of the Parliament, Fotis Kouvelis, set at the Appropriate Question to the Prime Minister, has a determinant meaning. Among other things, he asks: “... under what political liability he assigned dominant rights of the country to the USA, which are from now on established as the ultimate penal judge of both Greek and European citizens?”¹¹¹

It's worth to be notified that a long time before the discussions on the legal support begin, there had been an example (see the Racid case), who served his punishment in Greece and left the country, but was again arrested in 1998 by the Americans and remains in an American prison since then, waiting for his trial.¹¹²

¹⁰⁹ “*Terrorism Act 2000*”, “*Anti- Terrorism, Crime and Security Act 2001, Terrorism Act 2006*”
<<http://www.homeoffice.gov.uk/terrorism/govprotect/legislation/index.html>>

¹¹⁰ Beis K., “Extradition to the USA and lack of the state of justice. Abolition of the Constitutional Legal Order”, op. cit.

¹¹¹ Kouvelis Fotis (Member of the Parliament, Athens B' section, League of Left and Progress), Timely Question to the Prime Minister about: “*Agreement about extradition between the USA and the European Union*”, op. cit

¹¹² Patterns of Global Terrorism 2001, United States Department of State, May 2002, p. 131

CHAPTER SIX - CONCLUSIONS

The west- type democratic regimes, on which usually appear the specific phenomena of political violence, have shown a capability of adjustment to a wide spectrum of social requests, mainly through their abilities and their mechanisms of both social and ideological embodiment. Generally, we could say that democratic regimes enjoy the support of the smashing majority of their citizens, who press for the satisfaction of their requests, through the political parties, the Labour Unions and the citizens' organizations. We are talking here about a net of institutions, which has an equalizing role, up to a really important grade.

A general conclusion we can draw is the fact that usually the appearance and activity of terrorist organizations, as well as their disruption, is done within the frames of democratic regimes. At the European countries, similar examples were notified during the 70's, when industrial countries, such as Germany, France and Italy, were on a course of financial and social development, which followed the World War 2. In spite of the fact that the Greek social and political development is characterized by important differences, some basic conclusions can be considered to be similar.¹¹³

In the fundamental question of the effectiveness of anti-terror legislation in combating terrorism, the Greek experience shows that if the political will is strong enough (this was the case in Greece after the assassination of the military attaché of the British embassy in Athens Stephen Saunders in June 2000 by the terrorist organization 17N) anti-terror legislation can facilitate the effort of the intelligence and security apparatus in combating terrorism.

The terrorist organizations express their views through the publication of written texts, which usually focus on political, financial and social requests, aiming that way to the ideological "legalization" of their actions and the wider spreading of their political beliefs. These particular texts expresses in the past a general and indefinite ideological frame. Since the ideological references of the past are under détente and without any new political- ideological grounds to the front covering for

¹¹³ Bossi M., *Greece and Terrorism, National and International Dimensions*, op. cit

the appearance of equivalent groups, any form of terrorism as a copy of the past decades, is nothing but a sad, violent insertion, doomed to a short presence since its beginning.¹¹⁴

It's been argued that terrorism is neither a philosophy nor a social movement, but a method.¹¹⁵ Probably this particular opinion doesn't reply to the total of the organizations of political violence or the organizations that have used forms of violence in order to achieve a political aim, but, never the less, it becomes very understandable when some of these organizations show a different profile, compared to the one they formed during their historical course. We characteristically refer the Greek experience of the terrorist organization 17N, which, at least at the beginning of the trial, didn't seem to regard to the image they have formed during their 27 year-old activities. The procedure of the trial definitely "has" to track the blanks that appeared during the investigation. Within this frame, the "equation" of the prisoners to a myth formed either for objective reasons or technically and on purpose, through the duration of the organization's action, is what we seek for.

Terrorism remains for as long as its presence and activities affect states and governments. When the state is "bothered", it reacts by the means and the "tools" it has, giving an ending to the armed action of the terrorists. In spite of all these, the tools usually used by the state services for the facing of terrorism should logically be temporary and remain only for as long the phenomenon is active. Equivalently, the special legislation concerning the condemning of terrorists, should work under the same logic.¹¹⁶

¹¹⁴ See reappearance of the Red Brigades in Italy and arrests of its members, Newspaper *Ta Nea*, 3-3-2003

¹¹⁵ Wilkinson P., *Terrorism Versus Democracy, The Liberal State Response*, Frank Cass, London, 2001, p. 13

¹¹⁶ P. Wilkinson suggests, op. cit., p. 95: "If the forming of an urgent legislation is considered necessary for the confrontation of serious terrorist actions, the laws should be temporary, to be under a constant check by the Parliament, which ought to agree before their renewal. Under that grounds the democratic order and security is ensured, without risking forever the citizens' rights "

This bold suggestion may have had chances of surviving before the peak point of the 11th of September 2001, which marked the development of the international system. It's remarkable that all changes since that day are the zenith of a course that began at the beginning of the last decade of the 20th century. For the time being, they don't show any marks of return to ages of a mild terrorist action. The appointment and continuous discussion on the possibility of using weapons of mass destruction by terrorist organizations of the future, suggest the constant alertness and, therefore, the constant upgrading of the legislation.

As the new regulations aim to the confrontation of the international terrorism guided by the American views on justice, which have already consolidated internationally, there are about to appear important changes of a semantic content in the frame of the fundamental human rights. It's about changes expected to become a matter of a further speculation in the future, due to the fact that their real effects are characterized by their ability of working back in time.

It must be indicated that the American legislation after the 11th of September 2001 were followed by exhortations to the allied states- members of the European Union, in order to be aligned to the American views on the matter of terrorism. With the British immediate initiative outstanding (which overcame even the American grounds on some allocated matters), the institutional organs of the European community agreed to the committees up to a serious grade. The consolidation of security, being an aim to the American citizen, became, at the same time, the term of "acceptance" of constitutional changes and limitation of his rights

Today, the dilemma "security or freedom" consists on two meanings that are not just competitive but impactive. According to Professor I. Manoledakis: "A dilemma which appears to sovereign the contemporary choices of the penal suppressive policy in Europe. That dilemma isn't admitted officially. Any choice the state may make between its two parts brings along a cost: the pursuit of the maximum possible security will surely harm a part of our freedom. The concentration to freedom, as experienced by the western societies, especially after the constitution and implementation of the European Agreement for the Human Rights, fatally devitalizes a part of the suppressive authority for the confrontation of the problem, leaving society partly corruptible to damages of its personal and common legal possessions. If we work for a completely safe society, it's certain that we will distort its liberal

character. But preserving this character, practically, also distorts the basic element of the human coexistence in social formations, such as a peaceful, safe life. So, it seems that whatever is additional to security, is wandered by freedom. That way, the dilemma becomes tragic. That's why it's not admitted officially, but covered by the fake "*both freedom and security*" or "*freedom with security*" ("*security with freedom*"), which is welcome as a declaration but not applicable".¹¹⁷

The British Home Secretary John Reid in a speech to demos, a London think tank, told the delegates: "Sometimes we may have to modify some of our own freedoms in the short term, in order to prevent their misuse and abuse by those who oppose our fundamental values and would destroy all of our freedoms in the long term."¹¹⁸

The extensions that may have the lack of security in the future, will allow the taking of measures from governments, who will seem capable of covering it. The action of the international terrorism was the beginning of many important changes to the legislation of the international community, while the upgrade of its activity imposed the equivalent upgrade of its confrontation. The 11th of September 2001 interfered dramatically to the American dogma about the national security, giving a further push to the development of suppressive mechanisms and legislation. As Levy indicates: "The danger in national security is a situation in which the most important values of a nation are dramatically reduced by external dangers".¹¹⁹ On their turn, the international institutional organs, as receivers of the American encouragements for alignment to the confrontation of terrorism, endanger to set their function to the services of recycling violence.

International terrorism has transformed into a very dangerous enemy, while it often "meets" ineffectively with rebellions, minority disputes, national- liberate movements, even social movements that object to the use of weapons. The penal confrontation of the matter of terrorism, which is accomplished due to the American pressures, practically equalizes all kinds of violence, since it classifies them into the

¹¹⁷ Manoledakis I., *Security and Freedom*, Sakkoula ed, Athens- Thessaloniki, 2002, p. 189

¹¹⁸ Available from: <http://www.timesonline.co.uk/article/0,,2-2305628,00.html>

¹¹⁹ Levy M., "Is the Environment a National Security Issue?", *International Security*, Vol. 20, No. 2, 1995, p. 40

same frame of facing. It's about a confrontation that, since it "neglects" the crashing necessity of the differences and tensions that result from the development of the societies obviously works for the reproduction and development of violence in forms more painful than those of the past.

To conclude, the original objective of this research project was to map the significant anti-terrorism legislation in Greece in relation to the impact of the 11th of September and in accordance with the historical framework.

The main hypothesis made at the initial stages of this project was that the phenomenon of terrorism is full of complexities and under transition whereas it receives a variety of interpretations in our contemporary international system. This hypothesis is up to a certain extent verified nevertheless, there is still a tremendous need for continuing researching this domain as it is imposed by current international developments.

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Appendices

Appendix I – “November 17th” Trial Penalties

The trial of the “17N” which was based on the current penal law and in l. 2928/ 2001 “modification of terms of the Penal Code and the Code of Penal Procedure and other terms for the protection of the citizen from penal actions of terrorist organizations” resulted to the following penalties:

| | |
|------------------------------|---|
| <u>Alexander Yiotopoulos</u> | <u>21 times for life and 25 years of imprisonment</u> |
| <u>Dimitrios Koufodinas</u> | <u>13 times for life and 25 years of imprisonment</u> |
| <u>Christodoulos Xiros</u> | <u>10 times for life and 25 years of imprisonment</u> |
| <u>Savas Xiros</u> | <u>6 times for life and 25 years of imprisonment</u> |
| <u>Vassilis Georjatos</u> | <u>4 times for life and 25 years of imprisonment</u> |
| <u>Hercules Kostaris</u> | <u>1 time for life and 25 years of imprisonment</u> |
| <u>Kostas Karatsolis</u> | <u>25 years of imprisonment</u> |
| <u>Vassilis Xiros</u> | <u>25 years of imprisonment</u> |
| <u>Dionysis Georgiadis</u> | <u>9 years of imprisonment</u> |
| <u>Thomas Serifis</u> | <u>17 years of imprisonment</u> |
| <u>Paul Serifis</u> | <u>8 years of imprisonment</u> |
| <u>Kostas Telios</u> | <u>25 years of imprisonment</u> |
| <u>Nick Papanastasiou</u> | <u>8 years of imprisonment</u> |
| <u>Patroclus Tselentis</u> | <u>25 years of imprisonment</u> |
| <u>Sotiris Kondilis</u> | <u>25 years of imprisonment</u> |

Appendix II - DEVELOPMENT AND OPERATIONAL PHASES OF TERRORIST GROUPS IN GREECE

The groups, (mainly November 17th), responded to national and international challenges, in three phases: 1975 to 1980, 1980 to 1990, and 1990 to 2002.

1. Phase One: 1975 to 1980

The November 17's terrorist activities started differently from the other European ultra-left terrorist groups. They operated in Athens solely and almost never attempted to expand their sphere of influence on a national level. Even more, relying on assassinations was not a gradual decision. Instead, they started their campaign abruptly by murdering their targets. Contrarily, the Red Brigades in Italy persisted for seven years and two operational phases before they began killing their victims.

The November 17 appeared for the first time on December 23, 1975, when they stalked and assassinated Richard Welch, the CIA's station chief in Athens. Twelve months after the attack on Welch, they murdered a former police captain during the Colonel's junta. Ten days after that last murder, the French newspaper, *Liberation*, published the group's communiqué in which the terrorists claimed credit for the attacks and explained the operation in detail.²⁷ During this first phase, the terrorist attacks were deliberately designed to link the group with the concerns of the Greek masses and to capitalize on the public perceptions of the United States' complicity in establishing the Greek military dictatorship and the Turkish invasion of Cyprus. Hence, November 17 targeted symbolic enemies of the Greek populace, such as members of the U.S. intelligence community and members of the junta's police and military apparatus.

Likewise, in April 1977, they released their 28-page manifesto, titled "A Response to Political Parties and Organizations." In that, they perceived all mainstream political parties as being either myopic or repressive, accused the Greek state of being an American vassal, and presented their belief that Greece needed violence in order to change. At the same time, the group denounced finance capital, a consumer society and parliamentary democracy. According to them, no peaceful transition to socialism could occur. Revolutionary violence had to ensue as a response to right-wing pressure and declining working class radicalism.

All the victims of this period were shot with the same .45-calibre weapon, which became the group's signature weapon. By using this weapon, the group ensured that no other terrorist group could take credit for its actions.

2. Phase Two: 1980 to 1990

PASOK's election victory in 1981, which was repeated in the 1986 election, ended almost 50 years of right-wing political monopoly and brought the socialists into power with promises of a dramatic break from the recent past. The socialists launched a number of positive and long overdue social and legal reforms, namely, the recognition of national resistance, the abolition of the remaining civil-war legislation,

the establishment of the National Health System, the creation of equality between men and women, and the institution of civil marriages.

Furthermore, the socialists amended the constitution and adopted a foreign policy that was not pro-United States, evoking emotions of national pride on the left. However, during those years, the state's economic performance was poor. The insistence on maintaining generous wage and welfare payments at a time of stagnant growth drove public-sector borrowing to record levels, enlarged the already bloated public-sector, and created higher public deficits and double-digit inflation. At the same time, persistent public protests against PASOK's confused foreign policy, specifically over the renewal of the agreement for U.S. bases, created problems for the government.

From October 1981 to November 1983, November 17 did not perpetrate any terrorist activities or release any documents, leading the intelligence services, the police, and the mass media to presume that the organization had dissolved. Assassinating the head of the Joint U.S. Military Advisory Group in Greece (JUSMAGG), Captain George Tsantes, USN, along with his driver on November 15, 1983, proved the exact opposite.

In a seven page communiqué, the group explained its three years of silence and its belief that PASOK has abandoned socialism and betrayed the people's trust. U.S. bases were still on Greek soil, and Greece had not exited NATO and EEC contrary to the socialists' promises prior to their election in 1981.

The November 17 used that assassination as an occasion to declare war against the Americans, and the perceived servants of the ruling bourgeoisie class and imperialism, inaugurating a campaign of violence to remove them from Greece. Their targets now also became the political establishment, mainly the New Democracy party and PASOK, and the mass media. In February 1985, the first victims were Nikos Momferatos, the publisher of the country's largest-selling conservative newspaper and his driver-bodyguard.

Meanwhile, by the end of 1986, the rapidly worsening economic situation brought strong pressure from the EEC for reforms, which led to a stringent economic stabilization program with a freeze on wages as its dominant characteristic. The bad economic situation became even worse with the continuous strikes and protests against these austerity measures. PASOK explained its modified economic policy as an attempt to save the country from bankruptcy.

The terrorist response was almost immediate. After the killing of a 15-year old demonstrator by a stray police bullet, November 17 detonated a remote controlled car bomb aimed at a police bus. This was the first time that the group used car bombings. Fifteen of the 22 policemen inside the car were injured, one of them fatally. That attack against the police force was the bloodiest and shocked the authorities and the public, showing that November 17 was determined to raise the level of violence to induce mass casualties.

The years that followed were full of incidents that gave November 17 an excuse for the terrorists to kill again. The 1987 crisis in the Aegean Sea between Greece and Turkey, the War in the Gulf, and the Bank of Crete scandal became the focus of Greek social and political attention. Regarding the bank scandal, members of the cabinet and the Prime Minister himself were indicted for bribery and embezzlement. Ten months of ethical accusations and special court hearings polarized

the Greek society, weakened the economy, and brought the New Democracy party into power again from 1990 to 1993.

This time the terrorist's targets were even higher profile. Along with the destruction of property and the "usual" U.S. and Greek police and military targets, leading Greek industrialists, Turkish diplomats, well-known Greek scientists, members of the judiciary, members of the cabinet and the parliament were either injured or assassinated. In September 1989, November 17 shot and fatally wounded Pavlos Bakoyiannis who became the first active politician to be targeted, and the entire political establishment of the country was horrified by this act.

In addition, the nation was horrified at the assassination of Pavlos Bakoyiannis, the chief parliamentary spokesman of the conservative New Democracy party and son-in-law of its leader who became the Greek Prime Minister one year after the murder. The group used that murder, in particular, to send a clear warning against "the corrupt and rotten establishment," and to further destabilize the state and dictate the course of events. Also, in order to divide public opinion further, due to the political instability that occurred in Greece at that time, the group declared in a statement "the worsening parliamentary instability crystallized the political and social ills of the last two decades in the country."

3. Phase Three: 1990 to 2002

In April 1990, after three elections in ten months, the New Democracy party managed to form a government with a parliamentary majority of one. The November 17 ideological antipathy toward the new government was fortified by the state's dogmatic free market approach that followed. The new government proceeded with the privatization of a large part of the public sector and the closing of the heavily indebted industries under state control. This policy was to be followed by the socialists when they again came into power three years later. The programs adopted by the Greek governments in the 1990s allowed Greece to become the 12th member of the European Monetary Union in 2000 and to become the 26th richest country in the world by the end of 2001.

The terrorists responded to both conservative and socialist government's programs, "the policy of selling out Greece" in their words, by striking the offices of multinational companies, British and American banks and businessmen, the Finance Minister and his main advisor in 1992, Turkish diplomats, and ship owners.

Simultaneously, the major international issues, such as the Gulf War, the crisis in the former Yugoslavia and the abduction of the Kurdistan Workers Party (PKK) leader, Abdullah Ocalan, created a new situation for the terrorists. These terrorists felt that it was their obligation to respond in their own way to these situations, to these imperialistic actions of the West, and to the betrayal of the Greek socialist government. Consequently, they conducted several attacks against Western targets involved in the war against Iraq. From 1994 to 2000, only two executions occurred. The rest of the attacks were low-level bombings and rocket attacks. Many of them failed due to obsolete ordnance.

The last terrorist victim was the British military attaché in Athens Brigadier Stephen Saunders, and for many people it was a crucial mistake of the organization. This occurred on June 8, 2000. That murder was the group's response to NATO's campaign in the former Yugoslavia. By attacking Saunders, November 17 considered

that it attacked the inherent arrogance of the Anglo-Saxon political and military establishment and its “deeply-rooted belief that they are superior people and are therefore legalized to annihilate pariah nations through sanctions and bombardment, bringing misery, disease and death upon innocent people.”

Eventually, an incredible breakthrough occurred on June 29th 2002, when a time bomb detonated in the hands of handler in the port of Piraeus. Though this mail handler was injured, the bomb failed to reach its destination and this attack eventually led Greek police to the arrest of the first member of November 17, nearly 27 years since their first assassination of CIA Athens station chief, Richard Welch, outside his house in Athens on December 23, 1975.

These arrests were for many people the joyful end of that terrorist organization, rightfully labeled a “phantom organization.” Yet many people had also believed that bringing November 17 to justice would never be possible.

A similar ending befell the other major terrorist group, ELA. Many arrests took place during 2002 in Greece, and the authorities believed that the official end of that group was also only a matter of time.

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