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## **ABSTRACT**

Objective: The purpose of the work is to analyze some problems of countering the activities of extremist and terrorist organizations, as well as to develop proposals for its improvement from the point of view of building an optimal criminal policy. Methods: The systematic method considered a set of various directions of action against terrorist and extremist organizations. Analysis and synthesis were used when working with information provided in legislation, statistical data, judicial practice, comparison of data on crimes and convicted persons. Results: It has been established that there is some bias in the imposition of punishment under Article 282.2 of the Criminal Code of the Russian Federation in the direction of its mitigation relative to the sanctions of this article. A decrease in the number of persons convicted under Article 205.5 of the Criminal Code of the Russian Federation as for an unfinished crime has been revealed. in connection with which it has been proposed to actively disseminate information about compromise measures provided for by law. Conclusion: It has been concluded that the proposals to criminalize the propaganda of extremism are supported. Article 282 of the Criminal Code of the Russian Federation has been considered as a norm with double prevention, it has been proposed to ensure the stability of the assessment of the public danger of this act and to abandon its decriminalization. Proposals have been made to improve measures for criminological prevention of manifestations of terrorism and extremism.

**Keywords:** Terrorism. Extremism. Terrorist organization. Extremist organization. Crime prevention. Punishment.





# POLÍTICA DE COMBATE ÀS ATIVIDADES DE ORGANIZAÇÕES TERRORISTAS E EXTREMISTAS

## **RESUMO**

Objetivo: O objetivo deste documento é analisar alguns dos problemas de combate às atividades de organizações extremistas e terroristas, e desenvolver propostas para seu aperfeiçoamento em termos de construção de uma política criminal ótima. Métodos: O método sistemático considerou um conjunto de várias direções de ação contrária às organizações terroristas e extremistas. Análise e síntese foram utilizadas ao trabalhar com informações fornecidas na legislação, dados estatísticos, prática judicial, comparação de dados sobre crimes e pessoas condenadas. Resultados: Foi constatado que existe um certo preconceito na sentença de acordo com o artigo 282.2 do Código Penal da Federação Russa (CP FR) em relação a sua atenuação em relação às sanções deste artigo. O número de pessoas condenadas nos termos do art. 205.5 do Código Penal da Federação Russa foi considerado como crime incompleto, neste contexto, recomenda-se divulgar mais ativamente informações sobre as medidas de compromisso previstas pela lei. Conclusão: Foi feita a conclusão sobre o apoio de propostas para criminalizar a propaganda do extremismo. O artigo 282 do CP FR foi considerado como uma norma com dupla prevenção; foi sugerido para proporcionar estabilidade na avaliação dos perigos sociais deste ato e recusar sua descriminalização. Foram feitas propostas para melhorar as medidas preventivas criminológicas contra o terrorismo e o extremismo.

**Palavras-chave**: Terrorismo. Extremismo. Organização terrorista. Organização extremista. Controle do crime. Punição

## 1. INTRODUCTION

Extremism and terrorism are multifaceted threats. The activities of extremist and terrorist organizations are particularly dangerous. The use of the possibilities of criminal policy considered in science, including the recognition of acts as criminal (criminalization), the determination of their punishability (legislative penalization), the imposition of punishment (practical penalization), is essential for countering terrorism and extremism (Lopashenko, 2009, pp. 34, 143). However there are several problems in this area. Thus, legislative toughening of punishment for committing certain crimes does not always lead to a decrease in the number of persons committing them. It seems appropriate to simultaneously use the so-called compromise measures



(Alikperov, 1999; Kudryavtsev, 2003), related to exemption from criminal liability. These measures can be applied, including with the assistance of connected persons (Mølmen & Ravndal, 2021; Bovina et al., 2020a, 2020b, 2021).

An important problem discussed in science that requires serious research is countering radicalization (it is possible to cite examples of works by both Russian and foreign authors) (Doosje et al., 2016; Klausen et al., 2020) and the spread of the ideology of terrorist and extremist organizations, especially considering the importance of the activities of the "ideologists" of such organizations (Hausken, 2019). Criminal law can and should be used to solve this problem, as well as to prevent conflicts that can activate the activities of terrorist and extremist organizations.

## 2. METHODS

The work was based on a systematic method that allows considering a combination of several areas of countering the activities of terrorist and extremist organizations. Analysis and synthesis were used when working with the information presented in different sources (legislation, literature, statistics, judicial practice), comparison of data on crimes and convicted persons.

## 3. RESULTS AND DISCUSSION

General issues of criminal and legal counteraction to the activities of extremist and terrorist organizations

Countering the activities of these associations requires the adoption of a variety of measures, which should be sufficient and not excessive. Moreover, one of the elements of terrorist tactics is the implementation of terrorist activities to provoke a repressive response from the State, which may cause discontent among the population (Ibrahim Shire, 2021). The problem of the so-called "emergency legislation" in the field of countering terrorism is also discussed in science (Bavsun, 2020, pp. 577-578).

The problem of countering the activities of terrorist and extremist organizations continues to be noted as relevant in the National Security Strategy of the Russian Federation 2021 (President of the Russian Federation, 2021, item 44), in the Strategy



for Countering Extremism in the Russian Federation until 2025 (President of the Russian Federation, 2020) and in the Concept of Public Security in the Russian Federation (President of the Russian Federation, 2013).

The activities of such organizations threaten public and State security, as well as the peace and security of mankind since they can be combined with various crimes, including acts of international terrorism and mercenary activities (Borkov, 2021).

The key year can be considered 2002, when Article 282.2 was introduced into the Criminal Code of the Russian Federation, establishing responsibility for organizing the activities of an extremist organization and participation in it. According to this article, not only members of extremist organizations but also members of organizations that were recognized as terroristic were brought to criminal responsibility. The organization is recognized as extremist or terrorist by a court decision and is subsequently included in the relevant lists. However, in 2002, the Criminal Code of the Russian Federation did not contain a separate norm establishing responsibility for organizing the activities of a terrorist organization and participating in it. The situation changed only at the end of 2013, when Article 205.5 was introduced into the Criminal Code of the Russian Federation, establishing responsibility for these acts.

Such separate criminalization with the establishment of a stricter punishment in Art. 205.5 of the Criminal Code of the Russian Federation seems to be correct since the concepts of "terrorism" and "extremism" in the Russian Federation are independent and are enshrined in different Federal laws: from July 25, 2002, No. 114-FL "On counteracting extremist activities" (State Duma of the Federal Assembly of the Russian Federation, 2002) and from March 6, 2006, No. 35-FL "On Countering Terrorism" (State Duma of the Federal Assembly of the Russian Federation, 2006). The lists of extremist (Ministry of Justice of the Russian Federation, 2021) and terrorist (Federal Security Service of the Russian Federation, 2021) organizations are also separated. In addition, terrorism is a more dangerous phenomenon, it cannot be impregnable, whereas extremism can be expressed in the commission of acts for which administrative rather than criminal liability is established.

The crimes provided for in Articles 205.5 and 282.2 of the Criminal Code of the Russian Federation are included in groups of crimes, respectively, of a terrorist and extremist orientation (nature), including other acts. Figure 1 shows data on these groups of crimes (according to the Ministry of Internal Affairs of the Russian Federation





(2021)) for the period from 2014 (the first full year of Article 205.5 of the Criminal Code of the Russian Federation, introduced in November 2013) to 2020.

POLICY IN THE FIELD OF COUNTERING THE ACTIVITIES OF TERRORIST AND EXTREMIST ORGANIZATIONS

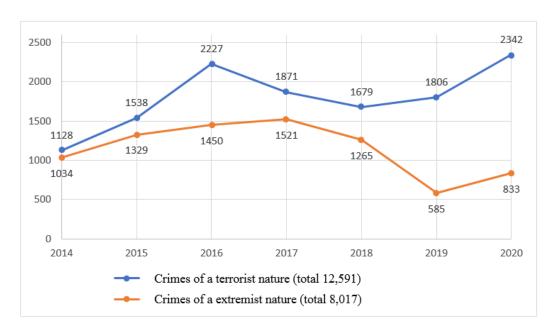


Figure 1. Information on the number of registered crimes of terrorist and extremist orientation in 2014-2020 (according to the Russian Interior Ministry)

As can be seen, there was a sharp reduction in the number of extremist crimes in 2019. The main reason for this is the change in the criminal law in 2018, namely the decriminalization of incitement to hatred or enmity, as well as abasement of human dignity (Article 282 of the Criminal Code of the Russian Federation), committed without aggravating circumstances. Prior to these changes, it was the most common crime of extremist orientation, significantly affecting statistical data. In 2018, this act was classified as an administrative offense (Article 20.3.1 of the Code of Administrative Offenses of the Russian Federation) (State Duma of the Federal Assembly of the Russian Federation, 2018) and currently entails criminal liability only if there are additional signs that increase the public danger of the act.

Figure 2 shows information about persons convicted of crimes under Articles 205.5 and Article 282.2 of the Criminal Code of the Russian Federation (hereinafter, all information on convicted persons is provided from the reporting forms on the state of criminal records in the Russian Federation for 2014-2017 provided by the Judicial Department at the Supreme Court of the Russian Federation (2021)).



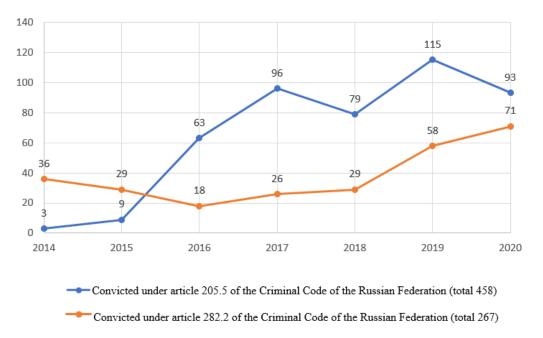


Figure 2. Information on the number of persons convicted under Articles 205.5 and 282.2 of the Criminal Code of the Russian Federation in 2014-2020 (according to the Judicial Department at the Supreme Court of the Russian Federation)

Despite the decrease in some periods, the number of convicts per year under Article 282.2 of the Criminal Code of the Russian Federation has been increasing since 2016, while the number of convicts under Article 205.5 of the Criminal Code of the Russian Federation has been decreasing in some years. However, attention is drawn to 2019, when 115 persons were convicted under this article, which amounted to 25% of all those convicted of committing this crime for the period 2014-2020.

The number of persons convicted of these crimes is not directly related to the total number of registered crimes of terrorist and extremist orientation, does not always coincide with its change. This may indicate the specifics of the crimes provided for in Articles 205.5 and 282.2 of the Criminal Code of the Russian Federation, which requires taking special measures to prevent them along with general measures to counter-terrorism and extremism.

Analysis of practical penalization (punishment imposed by the courts) allowed us to obtain results indicating its variability.



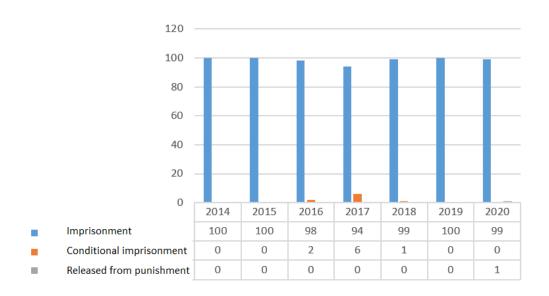


Figure 3. Types of punishments imposed on convicts under Article 205.5 of the Criminal Code of the Russian Federation (%)

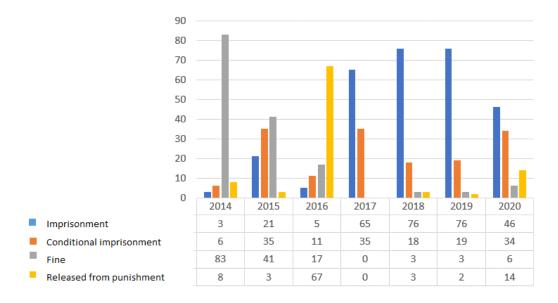


Figure 4. Types of punishments imposed on convicts under Article 282.2 of the Criminal Code of the Russian Federation (%)

According to Article 205.5 of the Criminal Code of the Russian Federation, only imprisonment is imposed and in very rare cases – conditional imprisonment. It seems that such a law enforcement approach is quite consistent with the current assessment of the terrorist threat and the public danger of the activities of terrorist organizations.

The situation with the imposition of punishment under Article 282.2 of the Criminal Code is different. A fine was most often imposed in 2014-2016 (this is the least severe type of criminal punishment), but then imprisonment began to prevail



among the types of punishment imposed. Perhaps this is since, in July 2016, the sanctions of Article 282.2 of the Criminal Code of the Russian Federation were changed – the size of the fine and the terms of imprisonment were increased (State Duma of the Federal Assembly of the Russian Federation, 2016). At the same time, the proportion of persons sentenced to imprisonment who were awarded a punishment below the lowest limit prescribed for the crime committed has also increased.

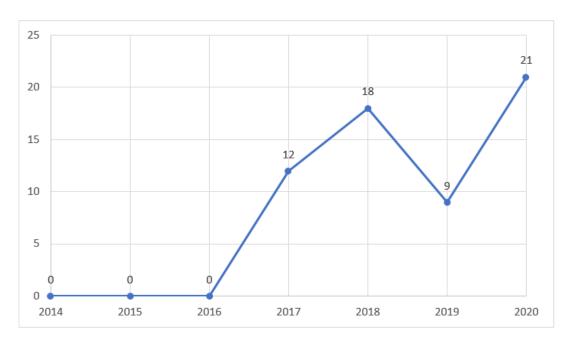


Figure 5. The proportion of persons (%) convicted under Article 282.2 of the Criminal Code of the Russian Federation to imprisonment, who were sentenced below the lowest limit provided for the crime committed

Significant changes are also visible in different years in the proportion of convicts under Article 282.2 of the Criminal Code of the Russian Federation who were sentenced to conditional imprisonment when it is not actually served – from 35% to 6%, as well as the fact that 67% of convicts were released from punishment in 2015.

The punitive potential of the sanctions of Article 282.2 of the Criminal Code of the Russian Federation may be quite high relative to the public danger of the crimes specified in it, which leads both to the imposition of a suspended sentence and to the imposition of imprisonment for a period lower than that provided for by the sanction. This was especially clearly manifested in 2020 when the maximum number of persons were convicted under Article 282.2 of the Criminal Code of the Russian Federation. The tightening of penalties under Article 282.2 of the Criminal Code of the Russian



Federation in 2016 did not lead to a decrease in the number of persons convicted of committing this crime.

Attention is drawn to the presence of a significant proportion of persons convicted under Article 205.5 of the Criminal Code of the Russian Federation as for an unfinished crime (there are no persons convicted under Article 282.2 of the Criminal Code of the Russian Federation who were convicted as for an unfinished crime).

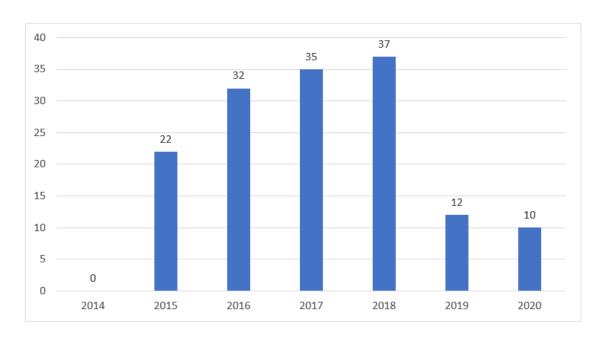


Figure 6. The share of convicts under Article 205.5 of the Criminal Code of the Russian Federation as for an unfinished crime (preparation and attempt) (% of the total number of convicts for the year under Article 205.5 of the Criminal Code of the Russian Federation)

This figure was more than 30% in some years. Among the reasons for this, we can note the effective work of law enforcement agencies to prevent participation in the activities of a terrorist organization at the preliminary stages. For example, detention after purchasing air tickets for departure to another country if there is a proven goal to join a terrorist organization operating on its territory (Supreme Court of the Russian Federation, 2019a).

However, a significant decrease in this indicator in 2019 and 2020 may indicate a decrease in the effectiveness of such activities.

Other ways can be proposed as measures to improve the practice of suppressing participation in such organizations at an early stage. Terrorists often express their views to friends or family before attacks. Researchers indicate different



proportions of such persons – 38% (Rose & Morrison, 2021) or 64% (Gill et al., 2014, p. 433). In this regard, the prevention of extremism and terrorism with the help of connected persons is discussed in science (Mølmen & Ravndal, 2021; Thomas et al., 2020). This issue should be attributed not only to the actions of lone terrorists but also to members of terrorist and extremist organizations. For example, during the investigation of the criminal case against M., who was subsequently convicted of participating in the activities of the international terrorist organization "Islamic State", it was found that before joining this organization, he informed his acquaintance about the conflict with relatives who considered him a "Wahhabi" (Supreme Court of the Russian Federation, 2019d), that is, they knew about his views.

This problem should not be considered from the side of repressive influence, since such a measure is already being implemented – Article 205.6 of the Criminal Code of the Russian Federation establishes responsibility for failure to report certain terrorist crimes. Its effect does not apply to persons who have not reported the actions of a spouse or a close relative. For example, A.Z. was convicted of committing the specified non-communication, since, knowing for certain about the person's participation in the activities of a terrorist organization, she did not report it to the authorized authorities. The Court stressed that this person was not her close relative (Volgograd Regional Court, 2021).

Perhaps the so-called compromise measures in the fight against crime related to mitigation of responsibility or exemption from it as a reaction to positive behavior that led to the prevention of a crime or the termination of its further commission would be effective here.

Thus, both Articles 205.5 and 282.2 of the Criminal Code of the Russian Federation contain incentive notes, according to which persons who voluntarily stopped participating in the activities of these organizations are exempt from criminal liability.

Similar incentive norms are contained in the notes to other articles establishing responsibility for the commission of terrorist and extremist crimes (articles 205, 205.1, 205.3, 205.4, 206, 208, 282.1, 282.1, 282.3 Criminal Code of the Russian Federation).

The rule on voluntary refusal to commit a crime (Article 31 of the Criminal Code of the Russian Federation), excluding criminal liability, may also be applied.





Perhaps the active dissemination of information about the existence of such grounds for exemption from criminal liability could contribute to the effective prevention and suppression of crimes committed by members of terrorist and extremist organizations, since the perpetrators have a real opportunity to change their behavior, take a step back, keep themselves and others from continuing socially dangerous activities and thereby avoid strict liability measures.

Friends and relatives, relying on these incentive norms, can positively influence the behavior of their connected persons who show a tendency to terrorism or extremism, especially those who have not yet been completely influenced by the corresponding ideology, have not formed stable negative views and assessments.

Criminal-legal counteraction to the involvement of citizens in the activities of terrorist and extremist organizations, as well as the spread of the ideology of terrorism and extremism

Involvement in the activities of a terrorist and extremist organization is qualified as independent crimes (Part 1.1 of Article 205.1 and Part 1.1 of Article 282.2 of the Criminal Code, respectively).

One of the main factors of this involvement is terrorist and extremist ideology, therefore, countering its spread ensures a reduction in the number of potential members of these organizations.

The problem of youth participation in these associations requires special attention. Over the past three years, the proportion of convicts aged 16 to 29 for committing these crimes has been the following: according to Article 205.5 of the Criminal Code of the Russian Federation – 78% (2018), 66% (2019), and 54% (2020); according to Article 282.2 of the Criminal Code of the Russian Federation – 83% (2018), 21% (2019) and 35% (2020).

The current direction is to counteract the "self-radicalization" of youth. According to the National Anti-Terrorism Committee (2019), the facts of such "self-radicalization" began to be revealed more and more often. As an example, representative cited the words of a young man (age 21) who planned to burn down a school and blow up a kindergarten, who after being detained reported that he was influenced by videos from the Internet, which were "very convincing" (National Anti-Terrorist Committee, 2019).





Indeed, the Internet is actively used by terrorist and extremist organizations. This problem applies not only to Russia. For example, researchers have noted the special role of the Internet in the activities of members of a jihadist group in the Netherlands (some of them tried to join Islamists operating in Chechnya and Afghanistan) (Schuurman et al., 2018, pp. 99, 109).

Scholars pay attention to the importance of the availability of violent extremist content on the Internet for radicalization, propose appropriate counteraction measures (Conway, 2017), investigate the audience's reaction to jihadist online propaganda (Cottee & Cunliffe, 2020), consider the methods used to propagate terrorist and extremist ideology. Criminal law must also fulfill its task here. Therefore, public calls to carry out terrorist or extremist activities are criminalized as independent crimes (Article 205.2 and Article 280 of the Criminal Code of the Russian Federation).

According to Article 205.2 of the Criminal Code of the Russian Federation, public justification of terrorism is also recognized as a crime. However, the justification of extremism is not criminalized, which should be considered a legislative gap. It seems that the establishment of criminal liability for the justification of extremism (such proposals have already been repeatedly expressed in science (Fridinskii, 2011, p. 12; Yushina & Evtushenko, 2016, p. 86)) would contribute to a more effective counteraction to extremism.

Justification of extremism at the level of organizations, not individuals, is also found in judicial practice. Thus, in several cases, the courts directly indicated that the perpetrators were united based on the ideas of the international terrorist organization "Islamic State", which justified violence, extremism, and terrorism (Supreme Court of the Russian Federation, 2019b, 2019c, 2020). Accordingly, the broadcast of these justifying ideas by supporters of the named organization into the public space could be qualified not only as a justification of terrorism but also as a justification of extremism if there is an appropriate norm in the Criminal Code of the Russian Federation.

# Prevention of conflicts and activities of terrorist and extremist organizations

The incitement of various types of hatred or enmity on the grounds of race, nationality, attitude to religion, etc., destabilizing the situation in society, can cause serious conflicts that can lead to the emergence of terrorist and extremist associations





or the activation of their activities. Therefore, the prevention of such excitement is of particular importance. Under certain circumstances, these actions are criminalized under Article 282 of the Criminal Code of the Russian Federation, which, thus, is an example of a rule with double prevention – it not only ensures compliance with the constitutional principle of equality of citizens and allows a person to be held accountable before committing more serious hate crimes or enmity, but also helps prevent the commission of other crimes (terrorist and extremist orientation), which can act as a "response" to the incitement of such hatred or enmity.

The assessment of the public danger of the act provided for in Article 282 has changed 4 times since the entry into force of the Criminal Code of the Russian Federation (from January 1, 1997). Initially, the term of imprisonment was set in the range from 2 to 4 years in Part 1 of Article 282 of the Criminal Code of the Russian Federation. In 2003 it has been changed for up to 2 years (State Duma of the Federal Assembly of the Russian Federation, 2003). In 2014 – for up to 4 years (State Duma of the Federal Assembly of the Russian Federation, 2014). In 2016 – for a period of 2 to 5 years (State Duma of the Federal Assembly of the Russian Federation, 2016). In 2018, this act was decriminalized and is now considered a crime only if there are some additional signs. Such changes in the assessment of public danger can disorient not only the law enforcement officer but also citizens.

As already mentioned, before the amendments made to Article 282 of the Criminal Code of the Russian Federation in 2018, this was the most common crime of extremist orientation. In the Strategy of Countering Extremism in the Russian Federation, the most dangerous manifestation of extremism is precisely the incitement of hatred or enmity on the grounds listed in Article 282 of the Criminal Code of the Russian Federation. It turns out that the most common and dangerous manifestation of extremism in 2018 was recognized as an administrative offense, entailing significantly less stringent measures of responsibility than criminal responsibility. It is difficult to recognize this decision as justified, especially given the data that governments around the world are increasingly faced with an increased demand for understanding and countering hateful ideology and violent extremism both on the Internet and offline (Windisch et al., 2021).

Punishment plays an important role in the prevention of crimes, but it is not the only means of countering crime. Prevention of terrorism and extremism is of no small





importance, based on the study of the personality characteristics of such a criminal, the organization of influence, including post-penitentiary, considering the ideas of anti-criminal socialization (resocialization). Radical ideas are born in society itself and society should suppress them. The principles of social balance, respect for human rights, and freedoms with the inadmissibility of abuse must be strictly observed and protected by modern society (Cherney, 2021; Hasisi et al., 2020). Social control, along with criminal legal means, is an important tool for combating crime.

## 4. CONCLUSION

Several law-enforcement and legislative decisions can be identified summing up the research of some problems of criminal policy in the field of countering the activities of extremist and terrorist organizations. The practice of imposing penalties for actions related to the organization and participation in the activities of terrorist and extremist organizations should be more unambiguous and less changeable.

The active dissemination of information about compromise measures provided for by criminal law could contribute to the suppression of early participation in the activities of terrorist and extremist organizations.

We will also propose some legislative measures: 1) to support proposals to criminalize the justification of extremism; 2) to return the incitement of hatred or enmity to the circle of criminal acts, even if they are committed for the first time and without aggravating circumstances; 3) to ensure the stability of the legislative punishability of this act.

Punishment does not complete the process of countering the activities of the organizations in question. For example, scholars note that belonging to a terrorist organization significantly increases the risk of relapse. In this regard, an important stage that deserves independent study is the post-penitentiary impact, the prevention of extremism and terrorism, considering the ideas of counter-criminal socialization (resocialization).



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