Diplomatic activity in regulating human mobility

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Abstract

Embassies and Consulates are the headquarters of the diplomatic network abroad under the Ministry of Foreign Affairs. While the Embassy is the diplomatic representation of a State to the country of accreditation, the Consulate is responsible for the assistance and protection of compatriots abroad, as well as the promotion of the representing country. As far as promotional activities are concerned, the functions of a Consulate are very similar to those of an Embassy: they range from the economic-commercial sector to the cultural sector.

The following is an analysis of the different cases in which a fellow citizen, resident or just passing through, may need to contact a Consulate or an Embassy. The analysis will focus not on legislation but on practice, to connote how a diplomatic representation can be of help to a fellow citizen. This case study is therefore characterized by accidents, arrests, detentions, deaths, thefts, kidnappings and child abductions. Starting from the definition of the term "terrorism"; greater depth will be given to the case of attacks and how diplomacy also deals with the fight against international terrorism.

Describing the dynamics and above all the challenges that contemporary reality presents to society as a whole and places particular emphasis on the profession of diplomat and, more profoundly, on the very identity of those who cover this role, is not a simple matter. The process of globalization, the fragmentation of distances with the merging of centre and periphery, the increasingly articulated phenomena of immigration and the reappearance of nationalisms and the relative political references that spread over the different democratic scenarios, have multiplied the emergencies. In this context, not only the traditional political-social ties have given way to deep economic and commercial independence, but also the socio-cultural ones, in which the leading role is played not only by governments or their representatives, but especially by the so-called "diplomatic actors".

Among these, the figure of the Embassies and Consulates, is irreplaceable, not only in inter-state relations, acting as an important link between the State it represents and the district of residence, but particularly in those that turn out to be the plots at the transactional level.

The work of the diplomatic realities, is not limited to the assistance of the citizens of the State of which they are guarantors, for any eventuality that occurred during the stay in the territory of the receiving State, but also aims with commitment and above all to

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promote trade between one and the other State, as well as the purpose of developing cultural relations between countries concerned.

In the event of a difficult or emergency situation in which a fellow compatriot remains involved, the Consulate or the Embassy will promptly activate a network of assistance. First, a verification activity is carried out in order to clarify what happened, in order to obtain reliable information, through various sources released by local authorities or judicial authorities.

The contact with local authorities is a very important activity for cases of assistance: contact completely implicit because the local authorities usually warn the diplomatic realities.

In cases of assistance, it is necessary for the Consulate to contact the relatives of the compatriot, before they learn certain news from the media.

More in detail, this is how a diplomatic institution intervenes in some cases of consular assistance.

In case of accidents, in which the compatriot is injured, the Consulate and/or Embassy organizes the repatriation by air-ambulance. In the case of hospitalizations, close contact is made with the local hospital facilities.

In the event of the arrest or detention of a fellow compatriot abroad, the Consulate may exercise visiting rights. In addition, it intervenes with local authorities to improve the situation of the arrested or detained person (such as facilitating family visits), to obtain a shift of cells or to bring necessities.

In the event of the death of compatriots, the Consulate, in addition to organizing the repatriation of the body, takes care of all related activities (reception of family members who arrive in the host country).

In the event of theft, however, the Consulate issues an "Emergency Travel Document"; the document that allows the compatriot to make the journey back to their country of residence.

The case of kidnapping, on the other hand, is very particular, as it can be of a terrorist or extortionary nature. One of the most emblematic cases to which greater attention is given, also because of the great media attention.

Another frequent case is that of the abduction of the child by one of the parents: of vital importance is the collaboration of the trusted lawyer with the diplomatic reality, to be able to know well and frame the local legislation and direct the best parent compatriot.

However, this is a considerable use of resources, in order to increase the pressure on local authorities and achieve maximum collaboration.

1. Definition of the term "Terrorism"

International terrorism constitutes one of the most complex phenomena in contemporary history, from the point of view of analysis, understanding and, above all, with regard to the fight against the phenomenon.

Its legal definition is also difficult to understand.

Terrorism is generally identified in the set of criminal activities carried out in order to spread panic among individuals, groups of persons or an entire community, and therefore to pursue further purposes, generally of a political nature (Panzera, 1978: p. 1). It characterized by the presence of two elements, such as the illicit conduct, which consists in a crime of extreme gravity directed against persons and goods, and its transnational nature,

which, by some authors, considered in *re ipsa* to the terrorist act itself (Cherubini, Terrorismo (diritto internazionale), in Enciclopedia del diritto, Annali V, 2012: p. 1214).

The phenomenon, by its nature, does not remain confined within the national limits, but is of inter and transnational character.

According to two American scholars, James and Brenda Lutz, there are six elements necessary to be able to talk about terrorism, such as:

1) The use of violence or the threat thereof;

2) Violence must be perpetrated by an organized group;

3) The existence of a political objective;

4) Violence is directed towards a very wide public, which goes beyond the direct victims, often-innocent civilians;

5) At least one of the actors involved does not perform governmental functions;

6) Terrorism is "weapon of the weak" (Foradori, 2011: p. 304).

Throughout history, terrorism has assumed ever new connotations and has been identified in "terrorist networks"; which differ according to the time and time in question: Initially, it was considered that the phenomenon was nationalist/separatist (Foradori, 2011: p. 305), where the objective of the network was to use violence to gain control over a given territory and uninstall the existing state authority; since the 1960s and 1970s, they have been characterized by the advance of terrorist groups of neo-Marxist and nationalist inspiration, whose aim was to overturn the current political-economic order in order to establish a completely alternative system; later, in the 1980s, what is called "terrorism of the Islamic movements" (Di Stasio, 2010: p. 85); made its appearance on the international scene. The project has developed in most Muslim countries, especially in Egypt, Gaza, Lebanon and the West Bank.

The Islamic religion has today assumed two opposite connotations: that of the bloody religious fanaticism, and that of the religion of harmony that takes sides against the falsity of the western reality (Şerban 2018: 23-30), as instead claimed by the Muslims who proclaim themselves "moderate".

Returning to the definition of terrorism, it is important to point out that it is customary to specify its international character in order to be able to distinguish it from the classic internal crime, with which it shares the purpose of intimidation of the authorities and the subversion of the state political balance of a Country in which the criminal activity is committed, but from which it distinguishes itself with foreign centres of power.

The first legal definition, in fact, dates back to the Geneva Convention on the Prevention and Punishment of Terrorism of 1937, drawn up in reaction to the killing of King Alexander I of Yugoslavia and the French Minister of Foreign Affairs L. Barthou in Marseille in 1934, which states that terrorism consists of a set of crimes directed against a State and whose main purpose or nature consists in provoking terror in certain persons, groups of persons or the public.

Terrorism is not only difficult to identify but to "conceptualize": it represents a different phenomenon from the traditional war to which the States have always been accustomed; it does not provide for the clash between organized armies, it does not turn against a State, it does not avail itself of pre-established rules and it is not "predictable".

It is therefore the exact opposite of the classical war, like the First and Second World Wars, and it is precisely for this reason that regional and international organizations, as well as states, have found it very difficult to deal with a different threat than those to which they were accustomed.

International cooperation in the fight against terrorism

The fight against terrorism is associated with the activities of Bodies or Administrations, such as the Minister of Justice, the Minister of the Interior, the various Intelligence and Law Enforcement Agencies, which daily contrast such phenomena in collaboration with the analogous organizations of the partner Countries.

However, in addition to the security sector, diplomacy also plays a fundamental role in the fight against international terrorism.

In order to define the current nature of the threat, the very concept of the "fight against international terrorism"; needs to be framed in a meaningful way. The main threats to security, in addition to terrorism, stem today from a series of increasingly interlinked processes, such as trafficking in human beings, trafficking in migrants, organised crime, illicit trafficking in arms, drugs, cultural goods, money laundering and corruption.

Therefore, it is not possible to speak only of international terrorism in itself, but of the interconnection with crime, illicit trafficking, all of which have a very specific aim: the weakening of state structures[1].

It should also be noted that the location has changed and that the geographical extent of this phenomenon has increased. In fact, terrorist formations have been born, and becoming more and more active, in opposition and completely concurrent. For example, as opposed to Al Qaeda, which has as its range of action the Afghan-Pakistani chessboards, are regions such as Syria, Iraq, the Middle East, North Africa, sub-Saharan Africa, Nigeria, Yemen and the Horn of Africa. Alternatively, names such as ISIS, AL SHABAAT, AL MORABITOUN[2] have begun to have roles increasingly active and known to the public.

Terrorist networks prove to be phenomena, which are difficult to detect, because they are transnational. In fact, characteristic of the so-called foreign fighters are the activities following the training received from the organized terrorist groups present in the operative theatres and which they carry out once they have entered or returned to their Countries of origin: radicalization, self-reclusion and fragmentation are the most felt and connected aspects. Much more frequent are the terrorist threats, not by organized structures, but by small groups, self-activated and formed after a process of radicalization.

There is also another practice that has grown considerably: kidnap for ransom. This issue is the subject of attention to international level in the main forums: ONU (Resolution 2133 of January 2014), EU (Foreign Affairs Council, June 2014), G8 (Lough Erne Summit - Lyon Rome Group, 2013), GCTF (The Glob Counter Terrorism Forum).

Within the United Nations, the "Global Counter-Terrorism Strategy determines the focus of reference.

Adopted in 2006 by the General Assembly, it has four fundamental objectives[3]:

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[1] It has called the comprehensive approach, which takes into account the ever-increasing interconnections between organized crime networks, terrorist networks and illicit trafficking.

[2] Known as the foreign fighters, phenomena such as radicalization, self-empowerment, self-activation and fragmentation of terrorism, kidnapping for ransom purposes.

[3] Collective action is the UN Convention against Transnational Organized Crime (UNTOC) and its Additional Protocols, known as the "Palermo Convention", year 2000.
The signing in Palermo made Italy the center and symbol of the fight against transnational criminal organizations, so much so that on the 22nd Commission for the Prevention of Crime and Criminal Justice (CCPCJ), held in Vienna in April 2014, the Italian delegation presented a resolution in the affirmation of the Convention itself. "Renewed efforts to ensure the effective implementation of the United Nations Convention against Transnational Organized Crime and the Protocols there to on the tenth anniversary of the entry into force of the Convention".

1. Address the conditions for its dissemination;
2. Prevent and combat the phenomenon;
3. Strengthen the capacities of States for prevention and law enforcement and strengthen the role of the United Nations system in this regard;
4. Ensure respect for human rights and the rule of law as a fundamental basis for counter-terrorism.

The Convention against Corruption (UNCAC) is another instrument to combat corruption (Signed in Merida, Mexico, year 2003).

The Glob Counter Terrorism Forum, launched in New York in September 2011, brought together 30 founding members for the fight against international terrorism. At the initiative of the USA, the following countries met: members of the G8; Turkey; Spain; the Netherlands; Denmark; Switzerland; the Arab countries (United Arab Emirates, Saudi Arabia; Qatar, Morocco, Egypt; Jordan; Algeria); African (Nigeria, South Africa); Asian (Indonesia, Pakistan, China, India); South American (Colombia); and Oceania (New Zealand, Australia).

The role of the GCTF is strategic, especially in recent years, in the context of international counter-terrorism policy, identification and sharing, in a common way of acting.

Founded in October 2001 after the attack of September 11, the Rome-Lyon Group was formed by the merger of the Rome Group, on anti-terrorism and the Lyon Group, on the fight against international crime: it is therefore specifically dedicated to crime, illicit trafficking and clearly the fight against terrorism, with the aim of developing shared and collaborative practical tools from a strategic and political point of view[4].

The European Union, on the other hand, has dedicated a specific working group, called COTER, to the fight against international terrorism (Șerban 2018: pp. 232). It meets monthly in Brussels under the Presidency of the Council of the Union. Security threats are examined and sharing and contrast tools are provided (Altieri and Cifaldi 2018: pp. 56-64).

One of the most operative and concrete instruments to combat the aforementioned phenomena is represented by the Black Lists[5], in which the organizations and individuals considered terrorist are included, protagonists of sanctions such as the Visa Ban, the Travel Ban or the Assets Freezing (freezing of assets, bank accounts, financial activities and monitoring of the financial transitions of the subjects).

2. Future developments

The use of international coordination instruments is essential. Terrorism becomes a failed challenge if we lose sight of the priority need to challenge it with its own means: adaptability, Trans nationality, flexibility.

The protection of public security must not become a reason for psychological terrorism campaigns, which are designed to ensure increasingly effective social control. We need to build on our values, principles and rights: to protect them and make them our strength.

This makes it necessary to promote and encourage forms of cross-border cooperation. This is why, from an architectural point of view of the fight against terrorism,

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[4] Following the crisis in Ukraine, Rome-Lyon is suspended, as is the G8 exercise.
[5] There are regulations, the 2580 of 2001 and the 881 of 2002, which constitute the Black Lists where the subjects subject to sanction are inserted.

diplomacy is needed and diplomats are needed to create valid instruments for tracing and making people vulnerable.

On the long term, policies to prevent terrorism must be based on strengthening intercultural dialogue, education and social integration. Police cooperation and the exchange of information between Member States should be encouraged and the fight against all forms of financing of terrorist networks should be pursued so that they can be definitively dismantled.

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