

PRACTICAL ANALYSIS OF THE CRIME OF MERCENARY ACTIVITY. CASE STUDY OF THE LIBYAN STATE

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The mercenary phenomenon took on a particularly large scale of manifestation in the contemporary stage. Currently, their presence on the battlefield is no longer a secret. They can appear at various stages of the evolution of the military conflict, military actions or other violent actions aimed at overthrowing or undermining the constitutional order or violating the territorial integrity of the state. The activity of mercenaries is dictated either by the need of the people participating in these actions to benefit from some remuneration according to expectations, or by subjects who are in the shadows and pursue some goals and objectives to be achieved. Therefore, in the following order, we propose, as desired, to carry out an analysis of the presence of mercenaries in the State of Libya, as well as to study their role on the Libyan territory.

Keywords: mercenary, violence, military, financial remuneration, external support, lack of norms of conduct.

ANALIZĂ PRACTICĂ A INFRAȚIUNII DE ACTIVITATEA MERCENARILOR. STUDIU CAZUISTIC AL STATULUI LIBIAN

Fenomenul mercenariatului a luat o amploare de manifestare în etapa contemporană deosebit de mare. Actualmente prezența acestora pe câmpul de luptă, nu mai este un secret. Aceștia pot apărea la diverse etape ale evoluției conflictului militar, acțiunilor militare sau a altor acțiuni violente orientate spre răsturnarea sau subminarea orânduirii constituționale ori violarea integrității teritoriale a statului. Activitatea mercenarilor este dictată fie de necesitatea persoanelor participante la aceste acțiuni de-a beneficia de careva remunerații pe măsura așteptărilor, fie de subiecții care se află în umbră și urmăresc careva scopuri și obiective de atins. Prin urmare, în ordinea care succede, ne propunem ca deziderat, de-a efectua o analiză a prezenței mercenarilor în Statul Libia, precum și studierea rolului acestora pe teritoriul libian.

Cuvinte-cheie: mercenar, violență, militar, remunerație financiară, susținere exterioară, lipsa normelor de conduită.

ANALYSE PRATIQUE DU CRIME D'ACTIVITÉ MERCENAIRE. ÉTUDE DE CAS DE L'ÉTAT LIBYEN

Le phénomène mercenaire a pris une ampleur particulièrement importante de manifestation dans la scène contemporaine. Actuellement, leur présence sur le champ de bataille n'est plus un secret. Ils peuvent apparaître à divers stades de l'évolution du conflit militaire, des actions militaires ou d'autres actions violentes visant à renverser ou à saper l'ordre constitutionnel ou à violer l'intégrité territoriale de l'État. L'activité des mercenaires est dictée soit par le besoin des personnes participant à ces actions de bénéficier d'une certaine rémunération en fonction des attentes, soit par des sujets qui sont dans l'ombre et poursuivent certains buts et objectifs à atteindre. Par conséquent, dans l'ordre suivant, nous proposons, comme souhaité, de procéder à une analyse de la présence de mercenaires dans l'État libyen, ainsi que d'étudier leur rôle sur le territoire libyen.

Mots-clés: mercenaire, violence, militaire, rémunération financière, soutien extérieur, absence de normes de conduite.

ПРАКТИЧЕСКИЙ АНАЛИЗ ПРЕСТУПЛЕНИЯ НАЕМНИЧЕСТВА. ТЕМАТИЧЕСКОЕ ИССЛЕДОВАНИЕ ЛИВИЙСКОГО ГОСУДАРСТВА

Феномен наемничества принял особенно широкие масштабы проявления на современном этапе. В настоящее время их присутствие на поле боя уже не секрет. Они могут возникать на различных этапах развития военного конфликта, военных действий или иных насильственных действий, направленных на свержение или подрыв конституционного строя либо нарушение территориальной целостности государства. Деятельность наемников диктуется либо потребностью лиц, участвующих в этих действиях, в получении определенного вознаграждения в соответствии с ожиданиями, либо субъектами, находящимися в тени и преследующими какие-то цели и задачи, которые необходимо достичь. Поэтому в следующем порядке предлагаем по желанию провести анализ присутствия наемников в Государстве Ливия, а также изучить их роль на ливийской территории.

Ключевые слова: наемник, насилие, военнослужащий, материальное вознаграждение, внешняя поддержка, отсутствие норм поведения.

Introduction

Today, it is no longer a military secret that, in the case of armed conflicts, third parties also participate on the battlefield, in specialized literature they have the quality of mercenaries. A mercenary is a person specially recruited at home or abroad to fight in an armed conflict, who takes part in hostilities, especially intending to obtain a personal advantage and to whom it is promised, by or on behalf of a party to the conflict them, remuneration superior to that promised or paid to combatants, having an analogous rank and position in the armed forces of this Party; who is neither a national of a party to the conflict nor a resident of the territory controlled by a party to the conflict; who is not a member of the armed forces of a party to the conflict and who has not been sent by a state other than a party to the conflict on an official mission as a member of the armed forces of that state [5, p. 16-17].

It is notable that, on June 10, 1977, additional protocol no. 1 to the Geneva Conventions of August 12, 1949, regarding the protection of victims of international armed conflicts entered into force.

In the preamble of this international act, the High Contracting Parties proclaim their ardent

desire to see peace prevail between peoples and consistently remind that every state must refrain, in its international relations, from resorting to the threat of force or the use of force. Likewise, the High Contracting Parties express their conviction that no provision of the Protocol or the Geneva Conventions of August 12, 1949, can be interpreted as legitimizing or authorizing any act of aggression or any other use of force. At the same time, these provisions must be fully applied, in all circumstances, without any unfavourable differentiation based on the nature or origin of the armed conflict or the causes supported by the parties to the conflict or attributed to them [1].

More than that, within the limits of this international act, the High Contracting Parties expressly provided for the terminological definition of the mercenary *concept*.

Thus, the term *mercenary* means any person:

- a) who is specially recruited in the country or abroad to fight in an armed conflict;
- b) who takes part in the hostilities;
- c) who takes part in hostilities, especially intending to obtain a personal advantage and who is effectively promised, by a party to the conflict or on its behalf, a remuneration higher

than that promised or paid to combatants having a similar rank and position in the forces armies of this party;

d) who is neither a national of a party to the conflict nor a resident of the territory controlled by a party to the conflict;

e) who is not a member of the armed forces of a party to the conflict;

f) who was not sent by a state, other than a party to the conflict, on an official mission as a member of the armed forces of that state. At the same time, the High Contracting Parties of additional protocol no.1 to the Geneva Conventions of August 12, 1949, regarding the protection of victims of international armed conflicts, also provided for the fact that a mercenary does not have the right to the status of combatant or prisoner of war [1, art. 47].

The degree of investigation of the problem at present, the purpose of the research. At the present moment, the importance and the purpose of developing this scientific approach appear from the author's intention to reveal in the foreground the aspect related to the place and role of the mercenaries in Libya.

Materials used and methods applied. In the process of elaborating the scientific article, we were guided by several various scientific research methods that made it possible to properly investigate the titular subject, among which we can list: the analysis method, the synthesis method, the deduction method, the systemic method, the historical method, as well as the comparative method.

The theoretical-legal basis of the scientific approach includes relevant local literature, the international normative framework and online sources - which directly or indirectly address the essence and generic content of the topic under analysis.

The results were obtained based on the scientific analyzes carried out

Libya has become an almost completely failed state, after approximately more than 10

years of civil war. What is left of this country risks being, simply, divided in two between the Russian Federation and the Republic of Turkey, which are the states that are currently acting in the region from the position of the dominant players. The final goal of the two countries is to control a large area of Libya's rich oil and gas reserves.

Ships and transport planes bring tons of ammunition, equipment and military equipment to Libya every day, ranging from bullets, and anti-personnel mines to fighter jets, drones, anti-aircraft missiles or armoured cars.

Entered into chaos after the fall of Muammar Gaddafi's regime in 2011¹, Libya is divided between two rival powers: the Government of National Unity/National Accord (GNA), recognized by the United Nations Organization and based in Tripoli) led by Fayeza Serraj, and the authorities from the East allied with Marshal Khalifa Haftar, supported by a part of the elected parliament and its president, Aguila Saleh. Most of the oil reserves are located in the eastern region of the country, currently controlled by Marshal Haftar.

In the south of Libya, at the Jufra air base, the Russians are building airstrips, hangars and communication centres to bring more MiG-29 military aircraft here. Practically, almost all the Russian soldiers in Libya are military contractors employed by the famous Wagner group.

Since 2018, more and more weapons and specialists from Russia have arrived to support Haftar's forces: from snipers to 14 military aircraft, including modern surface-to-air missile systems such as the Pantsir S-1, which is also in the Russian army's equipment.

¹ Protests against the Libyan regime began in the city of Benghazi on 15 February 2011 and spread across the country, reaching Al Bayda, Al-Quba, Darnah and Az Zintan, and demonstrators took control of a significant number of cities, especially in eastern Libya.

On the other hand, Turkey intends to further increase its military presence: the Turks are also building new airstrips, hangars and various facilities at the al-Watiya air base, located west of Tripoli, where Ankara is supposed to will bring F-16 aircraft, as a counterpart to the Russian MiG-19s in the region. Turkey's interest is related to the recovery of billion-dollar contracts that Ankara had with Libya before the outbreak of the civil war in this country [8].

The 2011 Libyan Civil War was a conflict between Libyan revolutionaries and the Libyan Arab People's Socialist Grand Jamahiriya. It began as a series of protests and clashes that took place in the North African state against Muammar Gaddafi, the ruler of Libya for 42 years. At the same time, several militias are fighting for power and influence, and in recent years, other countries have also become involved in the conflict, including Russia and Turkey. The United Nations estimated that there were around 20,000 foreign fighters and mercenaries in Libya by the end of 2020 [6].

From online public sources, it was revealed that „many of Gaddafi's security forces refused to fight civilians and significant parts joined the protesters. Gaddafi employed large masses of foreign mercenaries from several African countries to attack the protesters. Gaddafi well controlled the army, the Khamis Brigade and a large mass of mercenaries. Some of Gaddafi's officials sided with the protesters and called for the help of the international community to end the massacres of civilians, many of whom are non-combatants” [11].

The President of the Republic of Zimbabwe, Robert Mugabe, has sent mercenary troops to Libya in support of his longtime ally, Colonel Muammar al-Gaddafi. several hundred soldiers from the Republic of Zimbabwe as well as air force pilots flew from Harare to Libya in a chartered plane to join Gaddafi's forces. The Zimbabweans have joined other

mercenaries from Ivory Coast, Chad and Mauritius fighting those who have revolted against the colonel's regime in eastern Libya. The mercenary force from the Republic of Zimbabwe, which includes members of a special commando, was sent thanks to a secret agreement between Gaddafi, Mugabe and General Constantine Chiwemga, the head of the Armed Forces of the Republic of Zimbabwe. The agreement to send troops from the Republic of Zimbabwe to support Gaddafi was so secretive that not even the powerful defence minister, 87-year-old Emmerson Mnangagwa, who is seen as one of the contenders to succeed Mugabe, was involved in the decision [10].

The protesters were the targets of unprecedented violence by the Gaddafi regime, which used the armed forces, militias and Libyan and foreign mercenaries to violently repress the protests, including the indiscriminate use of machine guns, snipers, aircraft and war helicopters against the civilian population. This resulted in a drastic increase in the number of deaths, injuries and arrests of a large number of people [3].

In Libya, the Wagner Group has been involved in logistical support and combat operations for Libyan rebel general Khalifa Haftar since at least 2018. The Wagner Group has been involved in war crimes, including summary executions of civilians and prisoners, slavery, planting internationally banned anti-personnel mines and the killing or maiming of civilians, including children, for example in the village of al-Sbeaa, south of Tripoli. At the same time, it should be noted that multiple and repeated violations of the United Nations arms embargo occurred in Libya and that the Wagner Group used Russian military cargo aircraft. The support given by Russian mercenaries and military trainers to radical armed groups has further destabilized the southern neighbourhood of the European Union.

On November 12, 2021, countries participating in the Paris Conference on Libya expressed their position against any foreign interference in Libyan affairs and supported the implementation of the action plan for the withdrawal of mercenaries, foreign fighters and foreign forces from Libyan territory. In early November 2021, Turkey sent approximately 150 Syrian mercenaries to Libya, in addition to the 7,000 mercenaries already present in the country and loyal to Turkey, despite local and international calls for the withdrawal of all foreign forces before parliamentary elections and presidential elections scheduled for December 24, 2021 [4].

Libya, fallen into chaos and disputed between two rival administrations, has become a favourite target for arms trafficking and the involvement of state entities with interests in the region.

Another clue to Wagner's operations in Libya was provided by a security source in Tripoli, namely a "shopping list" the contents of which suggest that the Wagner group is supported at the highest level of the Russian state government, although Russia has always denied these links.

Fighters of the organization were filmed in Libya by the soldiers of the Government of the National Union of Libya, recognized by the United Nations. Witnesses and soldiers say they killed civilians and prisoners during the conflict between the two camps.

The mercenaries are not recruited on behalf of Wagner, but for several front companies, for short periods as oil rig workers or security personnel, after passing physical tests and background checks. Then they go through training at the unofficial training base near Krasnodar, southern Russia, next to a Russian military base. They sign a contract in which they assume that they may die abroad and their bodies may not be repatriated. Most of those who accept this job come from small

towns, where job opportunities are lacking. They receive a salary 10 times higher than the average in Russia. The Wagner soldiers discuss armed conflicts in the world and say: „we could go there, it could be for us. Any contract and any travel means money”. Most Wagner agents have criminal records, so they can't easily join the military [7].

Likewise, from online public sources, it was revealed that in Libya, Wagner fighters appeared in April 2019, when they joined the forces of rebel general Khalifa Haftar after he launched an attack on the capital Tripoli. There was the union government supported by the United Nations. The conflict in Libya ended with a ceasefire in October 2020. It is estimated that around 1,000 Wagner mercenaries fought alongside General Khalifa Haftar in 2019 and 2020. A former fighter of Wagner describes the group as "a structure designed to promote the interests of the state outside the borders of our country". As for the combatants, he said they are "war professionals, people looking for work or romantics who want to serve their country". Another former fighter of Wagner's claimed that there is no clear code of conduct. If a captured fighter does not have information or cannot work as a slave, then „the result is obvious" [9].

In 2011, the United Nations Security Council adopted a Resolution because of its serious concern about the situation in Libya and introduced some restrictive measures against Libya. Likewise, the Security Council adopted several other resolutions on Libya that extended or modified United Nations restrictive measures against Libya, including the Security Council's commitment to the sovereignty, independence, territorial integrity and national unity of Libya. Thus, on this basis, the Council of the European Union, adopted a historic decision that prohibits the provision, directly or indirectly, to any natural or legal person, entity or body in Libya or

for use in Libya, of technical assistance, training or other assistance, including the provision of mercenary armed personnel, in connection with military activities or the supply, maintenance and use of weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts, as well as equipment that could be used for repression internal [2, art.1].

Conclusions

The activity of mercenaries is an antisocial act that manifests itself through the illegal actions committed in the objective reality by the perpetrator, manifested by participation in an armed conflict, in military actions or in other violent actions aimed at overthrowing or undermining the constitutional order or violating the territorial integrity of a state, without being a citizen of a party involved in such illicit activity. The presence of mercenaries on the battlefield, as we have observed, also took place in the territorial-administrative space of the Libyan State. They came to support both sides fighting in Libya, on the one hand the mercenaries fought in support of the Government of National Union led by Fayeze Serraj, and on the other hand the mercenaries found themselves in support of the Eastern authorities, allied with Marshal Khalifa Haftar, supported by a part of the elected parliament and its president, Aguila Saleh. At the same time, the mercenary phenomenon in Libya was also observed in support of the former Libyan leadership.

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