

PRESENCE AND ROLE OF MERCENARIES ON THE BATTLEFIELD, INCLUDING THE PARTICIPATION OF MOLDOVAN MERCENARIES IN THE WAR IN UKRAINE

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Abstract: *People are different in their way of being. Some differ according to their origin, race, spoken language, nationality, and other criteria, and others differ according to their ambitions, that is, according to their wishes and visions of the future. Some wishes or visions of the future can be obtained in a short way, but others are more difficult to obtain. Thus, in order to achieve their visions and goals, some people resort to military attacks, which turn into a battlefield. These struggles are carried out in serious violation of all the values of human society. A regrettable part of these fights is the participation of mercenaries in these illegal activities. Therefore, in the present scientific approach, we propose to analyze the participation role of mercenaries on the battlefield.*

Keywords: *battlefield, military aggression, mercenary, destruction of state property, loss of human life, etc.*

JEL Code: K 10; K 14

Introduction

At the present stage, the state of peace can be complicated quite quickly, with coexistence between peoples (groups of peoples) becoming particularly fragile on ethnic grounds, and the transition to violence becoming rapid and hard, involving large masses of people in relatively confined spaces. In the literature, war is defined as „a social-historical phenomenon that represents the sharpest manifestation of the conflicting political relations existing at a given time between large groups of people, organized from a military point of view and used to achieve certain economic and political goals, violent means, which gives this phenomenon a strong destructive character”. In the context of the general physiognomy of the war, a special interest is represented by the confrontation between the engaged forces, characterized by maximum violence, and in this vein, the author of this research is of the opinion that „each military action, big or small, has its distinct purpose, subordinated to the whole. If so, then the destruction and defeat of the adversary should be considered only as a means to an end”.

Determining the laws and principles that influence the organization, planning, and conduct of military action at all levels has been noticed in ancient times, with history providing many examples of military thinkers and commanders who have highlighted and

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successfully applied them practice. Marshal F. Foch emphasized in this regard that „the art of war, like all other arts, has its own theory and principles; otherwise it is not an art” (Debicki, 1998).

In the past, due to the decisive role of the armed confrontation between the belligerents in the wars, their essence was defined almost exclusively by their violent component (battle), the war being won or lost on the battlefield, while other areas of confrontation played a secondary role. Therefore, those who studied the phenomenon of war over time defined it relatively simplistically, only from the point of view of the violent confrontation of the armed forces of the belligerents.

1. Materials used and methods applied

In the process of developing the scientific article, we were guided by the following methods of scientific research: the analysis method, the synthesis method, the deduction method, as well as the comparative method.

The applicative material in the respective research is a relevant one formed first of all by the normative international reference framework, followed by the native provisions of the Republic of Moldova and various publicist studies that analyzed the reference subject.

2. Basic content

Considering war as a state or form of manifestation of social conflict, it can be appreciated that conflicting relations between large groups of people can manifest in a state of peace, crisis or war. So, the military action as a whole can be studied in the two main situations – peace or war. In this sense, the components of military action can be structured in different ways depending on the criteria analyzed. The logical relationship between “agent, purpose, object, means, operation, method, situation, result – on which the efficiency of the action depends – is not a static relationship”. It can take on different values, solutions and aspects, but taken as a whole, they can be useful in researching, structuring and deepening military action. The system of action determinations also remains valid in the military field. One can consider first of all the system of nomological, teleological, axiological, psychological, instrumental-operational determinations, other specific determinations that can be manifested as motivations of social action. In this sense, given the concrete content of the determinations, the image of the laws and relations of the armed struggle is relevant, but the fact that in their general form they are common, has significance for understanding military action as part of social action (Țenu & Stăncilă, 2003).

Mercenary generally means any person who undertakes to perform a specific task defined on the basis of a contract, for the payment of a fee.

The term is mainly used in the military field, to indicate a person who takes part in an armed conflict without being part of a conflicting nation or faction and who is motivated to fight only for personal gain. In this sense, mercenaries have been widely used in wars of all ages, as in the case of wealthy soldiers; Although activity in various parts of the world is

formally illegal, mercenary troops – organized by private military companies – are also commonly used in contemporary conflicts, both to support the regular armed forces and to conduct informal military operations.

The use of mercenaries was very common in the Middle Ages: for example, during this period, the quintessential mercenary militias were the so-called wealth companies, made up of wealthy soldiers. At the Byzantine court, Scandinavian warriors (Viking), known as Varangian guards, were recruited as mercenaries from the High Middle Ages, forming the chosen guard of the Eastern emperor.

It was then the Norman knights of the Drengot family who initially set out on the Lombard pay of the princes (against the incursions of the Saracens of Naples and Salerno) and then the Bari insurgents in the anti-Byzantine battles. In municipal Italy, although small groups of mercenaries were occasionally enlisted at the end of the twelfth century, it was only in the second half of the thirteenth century that their use became more and more massive. Especially since, in the second half of the 13th century, the practice of ‘replacements’ began to spread in the municipal armies, which allowed those who were selected to take part in military operations to be replaced by another person, paying it clearly. Mercenary troops were used in the Battle of Campaldino in 1289 alongside the Florentine army; the municipality of Siena also used it, stipulating contracts between 1327 and 1351 with an ante litteram leader such as Guidoriccio da Fogliano who also placed himself in charge of the scaligers. From the first decades of the 14th century, the habit of hiring mercenaries, especially knights, became more and more common. The economic wealth of Italian cities and lords and the frequent wars led to the arrival on the peninsula of groups of mercenaries from different European countries, such as France, Germany or Hungary. Along with them, there were many Italian mercenaries, especially among the infantry, not to mention the Genoese crossbowmen, in great demand in Italy and also abroad. Then came the venture companies, led by a wealth captain, who concluded real contracts with the gentlemen and leaders in question. They were widely used in Europe from the 14th century to the first half of the 17th century.

Even the medieval states used this type of troops, so much so that Niccolò Machiavelli denounced their danger in his writings (following at least the second, because Polybius had already advised their use, except for minimal quantities). The Lansquenets were the mercenary troops who carried out the Sack of Rome in 1527. Other well-known and highly regarded mercenary infantry militias were the phalanxes of the Swiss mercenaries.

In the twentieth century, especially after World War II, mercenaries were used in various conflicts, especially in the wars of third and fourth world countries. From World War II onwards and during the Cold War, mercenaries were hired, as well as to take part in armed conflicts on behalf of the directors, and to carry out coups, such as in the Congo crisis in the first half of the twentieth century. The 1960s, the Nigerian civil war, the Angolan civil war, the Benin crisis in 1977 or the Seychelles crisis in 1981.

From 1994 to 2002, the U.S. Department of Defence concluded more than 3.000 contracts with so-called US private military companies for a turnover of 100 billion euros a

year, with 15.000 people employed in missions earning up to one thousand euros a day.

There has been a further increase since the 2000s, for example during the 2003 Iraq war and also in the following years, due to their involvement in the fighting and interrogation of Abu Ghraib Prison, which became famous for denouncing torture. During the conflict, mercenaries in Iraq were the second force in the field immediately after the United States and before Great Britain. The use of mercenary troops was reported in 2011, including during the Libyan civil war and the Syrian civil war. During 2015, after the end of the Iraq war, the number of combat personnel employed in US private military companies in Iraq continued to grow.

Mercenary is a formal subject unrelated to the parties to the conflict and specifically recruited by a client (government, company or other organization) who often operates abroad. Its duties are generally established by a contract with its client, as opposed to those belonging to the ordinary armed forces, which are exclusively responsible for the home country and do not have the military status and powers, powers and legal rights. In this way, mercenaries often do not act in accordance with international humanitarian law and, if captured, do not have the protection that a prisoner of war enjoys.

In contemporary times, the services attributable to these activities are often performed by private military companies, i.e. companies that also offer consulting and specialized services, even if in many countries of the world this activity is expressly prohibited and sanctioned by law. Although mercenary activity is formally illegal in various countries around the world, mercenary troops – organized by private military companies – are also commonly used in contemporary conflicts, both in support of regular troops and in conducting war operations unofficial.

There is no commonly accepted definition of a mercenary in contemporary international law, although the distinction between a mercenary who provides services for a fee and a non-profit foreign war volunteer is quite clear.

However, at the national level, many states have special legislation for the activity of mercenaries, for example:

1. In Austria, citizens automatically lose their citizenship if they are part of the mercenary troops;
2. In Canada, the Foreign Enlistment Act of 1985 prohibits the recruitment of mercenary troops, except in specific cases;
3. In France, the penal code prohibits such activities;
4. In England, the 19th century Foreign Enlistment Act prohibits citizens from joining the troops of states in conflict with other states at peace with Britain;
5. Italy does not allow the participation of individuals, other than its own armed forces, in armed conflicts in the territory of another State, as the 1989 UN Convention was ratified by Law of 12 May 1995 n.21;
6. In the United States, the provisions of the United States Department of Defense use military force by private individuals; and it is also legal to set up and hire private military companies;

7. In South Africa, the 1998 “Foreign Military Assistance Act” makes it clear that citizens can only be part of contract troops for humanitarian missions. Following the outbreak of the Iraq war following the arrest of Mark Thatcher in connection with an attempted coup in Guatemala, legislation was amended in 2005;
8. Switzerland has not allowed mercenary activities since 1927, with the exception of the Swiss Vatican Guards (Mercenar).

Mercenaries have existed since political confrontations between states or, as in ancient Greece or Renaissance Italy, between neighbouring and rival cities. Even the Romanian rulers often relied on mercenaries, something less often said in textbooks, one of them being even Mihai Viteazul. The term mercenary comes from Latin, from *merces*, which means salary or reward. In 1977, 167 states signed an additional protocol to the 1949 Geneva Convention, which sets out the rules of today's war. According to the protocol, a mercenary is not entitled to the status of fighter or prisoner of war. This, as stated in point c.) of article 47, because a mercenary, by definition and by the etymology of the term, participates in hostilities only in order to obtain a personal, financial advantage. The text establishes a series of very strict conventions by which, for example, members voluntarily enrolled in what is, for example, the French Foreign Legion cannot be considered mercenaries, because they are controlled by one state: the French state.

Serbian mercenaries, for example, fought in Donbas, in eastern Ukraine, and even participated in Crimean operations, while Chechen mercenaries are well known and highly regarded. Several countries, including France and the United Kingdom, ban their citizens from becoming mercenaries, a crime punishable by law, although decades after decolonization French and British mercenaries have been among the most popular in young African states. One of the most famous was the French mercenary Bob Denard, involved in the civil wars in Congo and Yemen, but especially in the series of coups in the Comoros, where his mercenaries also assassinated the country's president Ahmed Abdallah. Since the 2.000s, there has been a real institutionalization of private paramilitary mercenary companies, which some states have resorted to, especially with the slow disappearance of compulsory recruitment in the West and the best known is the American Blackwater, very active in Afghanistan and Iraq. The fact that that protocol to the Geneva Convention denies mercenaries the status of combatant or prisoner of war is surprising. On virtually all occasions, the Geneva Convention grants rights instead of withdrawing them. But what the Convention means is that the mercenary has only the status of a captured civilian. He must be ‘treated humanely’ but can be tried for crimes and acts of violence, unlike a soldier who applied the rules of war. In the event of a conviction, the mercenary can be considered a mere murderer, which a prisoner of war will never be if he has not voluntarily committed crimes against humanity. The mercenary may even be sentenced to death in countries that still have this punishment, but a simple military man – no.

Mercenaries are criminally punished in the Republic of Moldova. The mercenary is defined in the Criminal Code as a person specially recruited, in the country or abroad, to fight in an armed conflict in exchange for remuneration. He is not a citizen of the party to

the conflict or resident in the territory controlled by one party to the conflict. He is not sent by a state on an official military mission. Until 2013, the participation of the mercenary in an armed conflict was punished as severely as the activity of those who hire, train or finance the mercenaries. The sentence was up to 15 years in prison. As a result of amendments to the Criminal Code, the penalties for both types of offenses have been reduced. Currently, a mercenary can be punished with a maximum of 7 years in prison. Those who hire or finance them risk 3 years more. The phenomenon has spread in the Republic of Moldova especially after the outbreak of the war in eastern Ukraine in 2014. A recent investigation carried out by the RISE Moldova investigative journalists' community says that, according to Intelligence and Security Service data, about 100 Moldovan citizens were allegedly mercenaries in the trenches of pro-Russian separatists in Donbas and Luhansk. Intelligence and Security Service has so far identified 47 mercenaries, 17 have been detained and 12 have been convicted. Some of the mercenaries who were identified were not detained simply because they did not return to the country. Connoisseurs do not rule out that they are among those in the country, but they have not been identified yet.

Former Deputy Minister of Interior of the Republic of Moldova, Ghenadie Cosovan, believes that national legislation should be improved. Currently, all those who end up on the dock, whether they admit or not that they have committed murders, are being investigated on the basis of the same article in the Criminal Code:

„Mercenary is seen in legislation simply as the enlistment of citizens in conflict zones. Or I would complete this article with other desertions, such as the use of firearms against citizens, participation in genocide. Participating in other mercenary-related crimes, such as homicides. Only through these methods will we prove that the mercenary is to carry a submachine gun, but that it provides that you must comply with the illegal instructions of the separatist, paramilitary forces in order to destroy the citizens” (Alexe & Ceapai, 2018).

Cosovan suggests that mercenaries should be punished more severely than required by law. What's more, half of those who have already reached the dock have been suspended, meaning they are at large because they have pleaded guilty in court. According to his opinion, they pose an imminent danger, including to the security of the Republic of Moldova and the Moldovan authorities should cooperate with the Ukrainian authorities in the investigation of the mercenaries, because in Ukraine the crimes committed by them are considered not only mercenary but also terrorist activities, being punished with years of imprisonment or even detention. for life. Official figures show that half of Moldovan mercenaries are from the Transnistrian region, which has been reported to be a “mercenary factory”. However, the constitutional authorities cannot intervene, as they do not have de facto control over this separatist region (Alexe & Ceapai, 2018).

In other words, we are also studying the essence of Swiss mercenaries. These were troops of Swiss infantry mercenaries fighting for compensation in favour of foreign lords and potential. They appeared in the Middle Ages and functioned, in a more or less

organized way, until the sixteenth century, when with the advent of nation-states, their use began to decline in favour of the regular armed forces. Their work changed the way they fought; their formations, at first simple and primitive, then evolved into a square phalanx, revolutionized the techniques of warfare, and, together with firearms, marked the defeat of the medieval knight and cavalry as the supreme weapon.

The reason why the mercenaries developed especially in the Swiss mountain cantons is to be found in their great poverty. The only available resource, apart from poor agriculture, was emigration, and this practically meant providing military services abroad for a salary. This emigration was also favoured by the type of economic activities carried out due to the orographic conformation of most of the cantons of origin. The mountainous territory only allowed growth and shepherding if the direct presence of the shepherd or breeder could be managed more easily than in agriculture itself and where they could be replaced by women, boys and the elderly, but also by the neighbourhood solidarity. In this socio-economic scenario “leaving widows and orphans was not a great tragedy”. The Swiss mercenaries had already manifested themselves in the thirteenth and fourteenth centuries, in the Hundred Years' War (337-1453), which stood out for the courage and ferocity which, combined with the impulse of the attacks, gave it international fame, series of victories by the Swiss cantons (especially at the Battle of Morgarten and Morat) gave continental fame to Swiss troops, which began to be demanded by the other powers, and in the 15th and 16th centuries the phenomenon took on greater proportions. It is therefore up to them to authorize the recruitment of this particular type of emigrant, whose social base consisted mainly of climbers but also members of the local nobility, acting as intermediaries with the communities. The cantons received compensation for this, but more importantly, they gained diplomatic visibility and value, which soon became effective. From this point of view, we can read the agreements, today we would say about the military assistance, from 1474 with Louis XI of France and other potentials.

In 1444, the Swiss were at war with Sigismund of Austria, an ally of French King Charles VII, who sent Dauphin (the future Louis XI) to his aid. During the battle of San Giacomo sul Sihl, the Swiss were annihilated, but the Dauphin managed to establish his excellent military qualities and thus concluded an alliance and a trade agreement with the Swiss states in 1444, renewed by Charles VII in 1453 and again by himself in 1463, considering it an excellent thing to keep your friends with that people. The Swiss did not keep the pact with the French king, and in 1465 they opted to join the League of the Public Good led by the Burgundian Charles the Bold. Louis XI then reconciled with the mercenaries by offering them a mutual defence agreement from the Duke of Burgundy, pledging to pay 20.000 francs annually in the cantonment box and granting other trade privileges, but being able to recruit soldiers in Switzerland instead. The daring Carol did not forgive the change in front of the mercenaries by declaring war on them, but he was strongly defeated in Nephew, Morat (1476) and finally in Nancy (1477) where he lost his life.

In the service and against the French kings. The three final battles of the Burgundian wars strengthened the image of Swiss mercenaries as excellent fighters. Louis

XI employed 6.000 (led by William de Diesbach) in 1480 to train his army in maneuvering operations on a simulated battlefield in Normandy, and on his departure, he requested and obtained permission to use one of their bodyguard companies (15 years) will later change their name to Cent-Suisses). When Charles VIII of France started the Italian War of 1494-1498 to assert the rights of the Angevins over the Kingdom of Naples, more than 25.000 Swiss mercenaries fought in his army, most notably in the Battle of Fornovo (1495). Louis XII reduced his number to 9.000 by entering into a ten-year contract with them; they used their aid during the Italian war of 1499-1504, conquering the Duchy of Milan and clashing with the Republic of Genoa, even though they refused to fight the latter, as the engagement contract contained only battles on the plain. These clauses thanked the Swiss mercenaries who came to establish a set of rules for the future: no fighting against other Swiss troops (the rule is not always respected), overseas, across the Rhine or south of the Pyrenees.

Relations with Louis XII continued until the French king refused to increase the compensation to the canton of Grisons. The Swiss joined the Holy League, inspired by Pope Julius II, and opposed Louis XII's successor, Francis I, who, however, severely defeated them at the Battle of Marignano (1515). From this battle, the military power of the Swiss, who "appeared for a moment the only potential capable of dominating northern Italy by imposing itself on both France and the Empire", was compromised. With the Peace of Friborg (November 29, 1516) and a substantial remuneration, Francis I brought him the Swiss cantons and their mercenaries who would no longer take up arms against France. In the Battle of Bicocca, along with the French commanded by Odet de Foix (1485-1528), the Swiss mercenaries were bloodthirsty and defeated by the Spanish arquebusiers: four rows of a *thousand arquebusiers* fired alternately to give themselves time to reload. The weapon, constituting a deadly and winning wall of fire. Even in the battle of Pavia they failed to prevent the capture of their "employer". Henry II of France renewed relations in 1516 with the possibility of enlisting no less than 6.000 and no more than 16.000 mercenaries, unless he himself commanded the army. During the French religious wars, they supported both the monarchists, playing a key role in the battle of Dreux, and the Huguenots (without the authorization of the cantons). A small contingent, later massacred by insurgents, served as Louis XVI's bodyguard during the assault on the Tuileries as part of the French Revolution. Service to the kings of France continued until the fall of Louis-Philippe of France, the last of the Bourbons in 1848.

Reducing the phenomenon. Swiss mercenaries characterized the European wars of the fifteenth and sixteenth centuries with their presence and their fighting technique has long been considered exemplary. However, with the perfection of infantry tactics, the evolution of artillery to sufficiently mobile parts, the introduction of cast iron shells which, fitting perfectly with the barrels of cannons, allowed a more precise shot and greater autonomy, and finally with the increasingly improved use of the *arquebus*, but above all the rise of states and national armies has led to a gradual reduction in their activity. Moreover, in the 15th century, new groups of mercenaries appeared and began to oppose ruthless competition to the Swiss, such as the above-mentioned *lansquenets*. The more

agile formation of the Spanish *tercio*, well equipped with shooters and better disposed on the ground, and the modern tactics of the Dutch, such as those of Maurice of Nassau, limited the spread of the Swiss mercenary. The development of permanent armies and the need for motivated and reliable troops have finally put an end to the season of Swiss mercenaries. Until 1860 at least one regiment served in the Kingdom of the Two Sicilies. Their last followers are the current Swiss guardians of the Vatican.

Conduct and discipline. The call for arms in the canton has always been widespread and has led to the formation of much larger armies compared to those in other countries and much more motivated, because the Swiss, accustomed to fighting for liberation from foreign domination, had to do this and to survive. Another peculiarity was the fact that the commanders, often from the same villages, fought among their people, with whom they had a habit of direct and personal life, participating in their risks and problems, thus developing a strong spirit, absent body in the other formations. They often distinguished themselves by their military prowess and determination on the battlefields, but also by their cohesion and loyalty to their leaders. In battle they were formidable and ferocious opponents, very often victorious, and for this reason they began to be sought by foreign sovereigns and princes.

Training. The Swiss mercenaries fought in the massive square, which attracted the Greek phalanx, armed with knowledge, opposing like hedgehogs the attacks of the cavalry that nothing could: only Francesco Bussone said that ‘Carmagnola’, under the command of Visconti troops, he gave her a bloody lesson in Bellinzona, getting the riders off their horses, and facing them in a melee victory. A formation consists of 3-4.000 people armed with a pike about five and a half meters high and arranged to form a compact and tight square. It sometimes happened that the painting was in the shape of a rectangle over a triangle, as was the case with Morat in 1476. During this battle, the ‘hedgehogs’ demonstrated excellent maneuverability, completing the encirclement of enemy lines at high speed and marching, to escape the artillery fire.

Engagement. The commanders, mostly small nobles or fallen feudal lords, belonging to what some would call feudal garbage, fought with their troops and won or died with them. The Swiss were devoted and brave as long as they were paid, paying attention to money and prey, far from political ambitions, but they quickly abandoned their client if the money was delayed: *Pas d'argent pas de Suisses* (no money, no Swiss). They did not bind themselves in any way to the sovereign or prince they served, but once the military campaign was over, they returned to their own country. They were serious and punctual professionals, inflexible in granting, but equally inflexible in terms of due diligence; they became a human and military stereotype not only for their distant national heirs, but also for their contemporaries who were inspired by them, such as the German *Landsknechte* whose presence on the battlefields was often decisive. They belonged to that motley world of mercenaries who did not fight *pro aris et focis* and who could make a victorious war campaign laden with riches. Against them and the mercenaries in general, the voice of Niccolò Machiavelli rose and, with great acrimony, placed them at the root of the misfortunes in Italy. The writer's attacks were mainly due to the infidelity shown when payments began to be delayed or when the war

campaign proved less fruitful than expected.

Their arrival marked the end of the medieval war, characterized by a lack of blood, numerical limitation of armies and the domination of feudal cavalry and the beginning of modern warfare, characterized by large bloodbaths, lack of mercy for the enemy and the spread of mercenaries. “Compared to the pathos of the cavalry war – where people shouted, the signs waved, sang, laughed, cried, offended, but practically died less – the Swiss „hedgehog” was an image of gloomy, impassive, inexorable ferocity” (Swiss mercenaries).

International humanitarian law on armed conflict is the set of rules of international law, of customary or conventional origin, intended to regulate in particular the problems that have arisen in situations of international and non-international armed conflict. Thus, international humanitarian law has its own tools, and among the main of these components we can mention the following: 1868 – Declaration of St. Petersburg, 1899 – Hague Conventions, 1949 – Geneva Conventions, 1954 – Convention for the Protection of Cultural Property, 1972 – Convention on the Use of Bacteriological Weapons, 1977 – Additional Protocols to the 1949 Geneva Conventions, 1980 – Weapons Convention Conventional and Additional Protocols, 1989 – Convention on Mercenaries, 1993 – Chemical Weapons Convention, 1995 – Laser Weapons Protocol for Blinding, 1997 – Anti-Personnel Mines Convention, 1998 – Statute of the International Criminal Court, 2002 – Entry into force of the in Rome establishing the first permanent international criminal tribunal, 2008 – Convention on Defragmentation Bombs (Exploring humanitarian law).

Clashes in late 1991 between Moldovan police and paramilitary forces in the Tiraspol regime intensified in Tiraspol, Tighina and Dubasari. They were concentrated, especially near the police stations, judges, prosecutors, where, according to the Chisinau press, at first the protesters led by ‘the famous Galina Andreeva’ entered the scene, being later helped by detachments of guards, Cossacks, mercenaries, and other self-proclaimed supporters of the republic.

On the night of March 1 to 2, a statement from the Chisinau government, published by several newspapers, stated that paramilitary forces, opening fire from submachine guns, occupied the headquarters of the Dubasari Police Station. 32 policemen were taken hostage, “at around 5 in the morning, on all the bridges and on all the roads on the left bank of the Dniester, guard and Cossack posts were installed, equipped with armored personnel carriers” (Basiul, 2016).

On March 2, the clash moved to Cocieri, where there was a unit of the former Soviet army. Both supporters of Smirnov's republic and locals who supported the Chisinau authorities took weapons from the depots of this unit. There were deaths and injuries in both camps. „In order to restore public order”, the locals called for help from the special purpose police brigade, the daily parliament of the „Country Council” reported. March 2 is considered the beginning of the Dniester war in Chisinau. Within a few days, military hostilities spread to other localities. The bridges from Dubăsari (Lunga), Gura Bâcului and the one from Vadul lui Vodă were blown up. On March 28, the state of emergency is declared throughout the country. Along with the fighting, the Moldovan army was also marching (Basiul, 2016).

The armed conflict at the crossroads of Ukraine between East and West has drawn Moldovan mercenaries to the war in the Donbas region. For money, they have become pawns in the trenches that force the red line on the political map of the world.

Thus, in the following order, we propose to pay attention to some case studies on the participation of Moldovan mercenaries in the war in Ukraine:

1. V.C., 35 years old, resident of Cimișlia. In early 2015, V.C. went to war in Ukraine. For this, he was sentenced to three and a half years in prison, with a conditional suspension for a period of two years. V.C., a mercenary, claims that: „It takes him five seconds to kill a man. She can kill him with her fingers. He never looks her in the eye. You don't have to look the sacrifices in the eye. We are mercenaries and for us this is a service. We wear masks, we don't spare anyone. It doesn't matter who he is”. V.C. made the decision to leave for Ukraine drunk. He was in the town of Basarabeasca with some friends by the glass – Zaiat and Hamiak. There, he slipped into the hands of the pickers. He went to war the same evening, without travel documents. One of those who made him an offer helped him get out of Moldova. He was an employee of the State Railway Company of Moldova. V.C. was a retired soldier in an armed party in the self-proclaimed Luhansk People's Republic. V.C. also mentions that *”They paid us 1.000 hryvnia and that's it. For the idea and for the people. You don't have to go there. It's their country, let them find out. I'm so sorry for everything. But most of all, I'm not dead there. Someone was left without parents, children, grandchildren because of me. I regret everything. Why did I have to go there?”*;

2. R.C., alias „Tiger”, is 26 years old. He was sentenced to three years in prison for mercenary. Documents obtained by RISE Moldova show that in Ukraine, R.C. allegedly killed more than 50 people. For his involvement in the war he was remunerated, monthly, with 40.000 Russian rubles, which then meant about 750 euros. R.C. was part of the „Fulger” Special Purpose Battalion. In the area controlled by the separatists from eastern Ukraine, he arrived in May 2014, on a difficult itinerary. From Moldova he traveled to Romania, then through Bulgaria, Turkey and Georgia he arrived in the Russian Federation. From there it entered the separatist region of South Ossetia. After that he returned to the Russian Federation and, through the field, from the Matveev Kurgan region, he crossed the border with Ukraine. In July 2015, he decided to return home because his mercenary contract had expired, which usually lasted for three months. However, in the city of Rostov in the Russian Federation he was detained by the Russian special services, then deported to Moldova;

3. I.U., only 23 years old, was also sentenced to two and a half years in prison for mercenary activity. Ion and I met in the penitentiary. He told us that he had been in Donetsk for almost half a year, from February to June 2015. There he did not go to fight, but to save his younger brother, recruited in Moscow and sneaked into Ukraine, in the controlled area. of separatists. He found his brother, but they could not leave. The separatists took their passports and offered them to be soldiers on the “Vostok” detachment. I.U., mercenary: We accepted their offer to remain as soldiers and to fight for them for a salary of 15.000 rubles just for the purpose of recovering their passports;

4. A.S. left Transnistria for Moscow, and from there to Donetsk. He enlisted in the

Sparta military group. Andrei's mission was to identify conspiracy groups and bombard the streets with grenade launchers. A.S., mercenary:

„I declare responsibly that no one promised me and did not give me money. My participation in the conflict had a strictly principled anti-fascist position. I was taught to protect the weak from childhood. In this situation, I could not have done otherwise. And apart from the word thank you on the territory of Ukraine, of the Donetsk People's Republic, I have not heard anything else. I'm not a mercenary” (Sanduța & Șevciuc, 2018).

The concept of mercenary experienced a normative enlightenment in the legislation of the Republic of Moldova at the beginning of the last decade, with the adoption of the Criminal Code no.985 of 18.04.2002 and later being published in the Official Gazette of the Republic of Moldova no.

Thus, in Article 130 with the marginal name *Mercenary* from the normative limits of Chapter XIII with the title “*The meaning of some terms or expressions*” of the Criminal Law mentioned above, the legislator provides a generic explanation of the subject under analysis.

Under these conditions, “mercenary means a person who works in the territory of a state involved in an armed conflict or military action, for the purpose of receiving a material reward, not being a citizen of that state, not having a permanent residence in its territory and not being empowered, with the execution of official obligations” (Criminal Code of the Republic of Moldova. 2002).

Currently, the terminology of the *mercenary* concept established in the Criminal Law of the Republic of Moldova has the following approach.

According to art.130 CPRM, „mercenary means a person specially recruited, in the country or abroad, to fight in an armed conflict, who takes part in military operations in order to obtain a personal advantage or a remuneration promised by a party to the conflict or on its behalf, who is neither a citizen of the party to the conflict nor a resident of the territory controlled by a party to the conflict, is not a member of the armed forces of a party to the conflict and has not been sent by a state, other than the party to the conflict, in an official mission as a member of the armed forces of that state” (Criminal Code of the Republic of Moldova, 2002).

On 10 June 1977, the Protocol no.1 to the Geneva Conventions of 12 August 1949 on the Protection of Victims of International Armed Conflicts entered into force as a legal force, and within the limits of this international act, the High Contracting Parties expressly provided that terminological definition of the concept of *mercenary*.

Thus, the term *mercenary* means any person:

1. who is specially recruited in the country or abroad to fight in an armed conflict;
2. who, in fact, takes part in hostilities;
3. who takes part in hostilities in particular in order to obtain a personal advantage and who is actually promised, by or in the name of the party to the conflict, a higher remuneration than that promised or paid to combatants

- having a similar rank and function in the forces armies of this party;
4. who is neither a national of a party to the conflict nor a resident of the territory controlled by a party to the conflict;
 5. who is not a member of the armed forces of a party to the conflict;
 6. 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. At the same time, the High Contracting Parties to Additional Protocol no.1 to the Geneva Conventions of 12 August 1949 on the Protection of Victims of International Armed Conflicts also provided that a mercenary was not entitled to combatant status or a prisoner of war (Additional Protocol no.1 of 10 June 1977 to the Geneva Conventions).

Therefore, we can conclude that the practice of the activity of mercenaries is prohibited and liable to criminal liability.

Article 141 of the Criminal Code of the Republic of Moldova contains two typical variants of prosecuting the subject of the act of mercenary, these being the following:

1. the participation of the mercenary in an armed conflict or in military actions – under the conditions of art.141 paragraph (1) – Criminal Code of the Republic of Moldova of 2002, at 5 to 15 years;
2. the employment, training, financing or other insurance of mercenaries, as well as their use in an armed conflict or in military actions – according to art.141 paragraph (2) – Criminal Code of the Republic of Moldova of 2002. Punishment for such iniquity, during the beginning of the last decade being identical to the one provided in art.141 paragraph (1), ie the subject of the respective-typical variant, also being liable to imprisonment for a period of 5 to 15 years (Criminal Code of the Republic of Moldova, 2002).

In the criminal legislation of Ukraine, the reporting of the activity of mercenaries is established in art.447. In accordance with the text of the law of that rule specified in Section 20, Crimes against Peace, Security of Mankind, International Law and Order, mercenary actions are mentioned in five articles (The Criminal Code of Ukraine, 2018).

The tense situation in Ukraine resulted in the separation of Donetsk province from the Donbas region, which until 2014 were a whole. Therefore, once it became de facto independent, the Donetsk People's Republic adopted its own criminal law, which in art.421 elucidates the criminal liability regarding the activity of mercenaries (The Criminal Code of the Donetsk People's Republic, 2014). This fact, regarding the application of criminal liability in the Donetsk region, refers to the actions of recruitment, training, financing, support, use and direct participation of mercenaries in armed conflicts.

Conclusion

The activity of mercenaries, as an illegal act, dates to ancient times. During the last century, mercenaries were used in various wars, armed conflicts, „special operations” and others. Since the Second World War and during the Cold War, mercenaries have been

employed as well to participate in armed conflicts on behalf of the principals, and to carry out coups, as for example in the Congo crisis in the first half of the sixties, the civil war in Nigeria, the civil war in Angola, the Benin crisis in 1977 or the Seychelles in 1981.

The mercenary, as a natural person, is a special individual, recruited in a special way, who is not a citizen of any of the parties involved in the conflict. Their mission is established by the people who recruited them, through an unofficial contract, after which the mercenary is offered a financial remuneration. At the present time, this activity is often carried out by private military companies, i.e. companies that also offer consultancy and specialized services, even though in many countries of the world this activity is expressly prohibited and sanctioned by law. In this chapter, we can mention that both the Criminal Code of the Republic of Moldova and the Criminal Code of Ukraine expressly regulate the crime of mercenary activity. But, not looking for this fact, some people show the desire to continue to practice this illegality, manifested through the activity of mercenaries.

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