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LEGAL STATUS OF PRIVATE MILITARY AND SECURITY COMPANIES IN CONTEMPORARY ARMED CONFLICTS

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ABSTRACT
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CONTENT

1. CONCEPT ELEMENTS OF THE RESEARCH

1. Actuality and importance of research subject. Despite all attempts at national and international level to avoid the use of armed conflict as a tool for settling disputes between states and to exclude this phenomenon from the list of mechanisms for pursuing the interests of states at the international level, this element is an inherent part of everyday life, including in the 21st century.

A characteristic element of all armed conflicts remains the material interest of the actors involved, and the presence and direct involvement of private structures at all stages of this process: from action planning and military training to direct participation in hostilities generates a number of difficulties in qualifying and legally regulating the activities of these entities and the legal status of their employees at both national and international level, especially in attempts to legally regulate the status of employees of these private military and security companies directly involved in contemporary armed conflicts. We consider that denying the existence and active presence of these actors in armed conflicts and in most tense situations and "grey areas" is the most flawed and counterproductive way of approaching a fact characteristic of contemporary armed conflicts.

Nowdays, there is no perfectly credible source capable of estimating at fair value the degree of involvement of private military and security companies in hostilities, estimating the volume and material value of these services and even more clearly establishing the rules of game in this segment of the private military and security services market.

The above demonstrates once again the need and importance of analyzing and researching the place and role of these companies in contemporary armed conflicts in general and the identification of mechanisms and legal instruments to ensure respect for human rights and international humanitarian law by these commercial entities and employees in executing the services they provide.

The legal implications of the difficulty to establish legal liability of non-state actors, the extent of the mercenaries' activities, their use of force and/or weapons, as well as the social and political damage resulting from armed activities, have steadily increased. Theoretically, international legal instruments should be applied in an attempt to regulate the activity of non-state actors and to reduce the negative consequences suffered by affected societies and individuals.

The construction and use of private armies is not an absolutely new phenomenon for humanity, but the magnitude of this phenomenon is manifested by the high degree of organization, the colossal sums invested, the ability to lobby one's own commercial interests at the highest decision-making

levels and turn war into a pure business, are the elements that define the role and place of private military and security companies in contemporary armed conflicts.

In an effort to ensure peace and security between world states and prosperous international cooperation, the United Nations, through its available structures and mechanisms, provides several guidelines aimed at excluding or regulating the specific activities of private military and security companies, such as and rules that seek to establish their liability for violations of the rules of public international law in general and international humanitarian law in particular.

Even if the legal status of the mercenary is strictly determined in the text of international regulations and their status is considered and qualified as illegal in the national law of most states, private military and security companies are not just a logical and historically developed continuation of this negative phenomenon, but they are a metamorphosis and a transformation of the involvement of the factor and private corporate interests in armed conflicts that strikes hard at what has been called over time the state's exclusive monopoly on the use of violence, including armed violence. The legalization of the mercenary's legal status at national and international level does not in any way solve the problem of the aggressive and pervasive involvement of private military and security companies in contemporary armed conflicts.

Another argument in the actuality of the subject under investigation is the rapid increase in demand for the services provided by such companies, and their beneficiaries are not only states, but also international intergovernmental and non-governmental organizations, transnational corporations.

Strange as it may seem, but also the United Nations, in due course, to ensure the effectiveness of peacekeeping missions or the security of programs and projects members carried out in areas of armed conflict or post-conflict, calls on the services of these companies.

All attempts at the international level aimed at the legal regulation of the status or activities of private military and security companies have not resulted in the adoption and implementation of an effective mechanism to prevent and combat the negative effects caused by the direct and active involvement of private military and security companies in contemporary armed conflicts. At the national level, countries seek to implement international treaties, as well as to develop and implement codes of conduct and to review existing criminal law in order to develop effective procedures for the detection, legal qualification and prosecution of persons or entities that by participating directly or indirectly in hostilities, violate the provisions of the international humanitarian law rules and the national law of that State, for the sole purpose of obtaining material advantages.

The actuality and importance of the subject under research lies in the need to investigate legal norms at national and international level, which claim to characterize and punish violations and abuses of private structures involved in contemporary armed conflicts. The stated purpose of international and national normative acts is to ensure the bona fide activity of non-state actors, as well as to eliminate the negative effects of such private military operations, the number of which is constantly increasing.

These facts raise social awareness of the need to properly analyze and understand regional political systems, the intentions of governments and the accessibility of international private military actors in contemporary armed conflicts.

It is also of the utmost importance to set targets and identify international legal mechanisms and procedures that could significantly contribute to the prevention of future military anti-humanitarian activities, as well as to ensuring the authentic and honest nature of current humanitarian and peacekeeping military operations.

In addition, the actuality and importance of the researched subject lies in the need to:

- determine the characteristics and consequences of the phenomenon of private military and security companies involvement in contemporary armed conflicts;

- set priorities for early detection and intervention in order to prevent abusive private military operations of civilians from one state on the territory of another;

- determine as clearly and unambiguously as possible the legal status, the limits of intervention and the mechanisms for holding employees and private military and security companies liable for their direct involvement in contemporary armed conflicts;

- recognize the existence and importance of this industry in the realities of contemporary armed conflict and to support the guild's self-regulatory initiatives to train and prepare its employees to comply with the rules and practices of conducting armed conflict and preventing direct participation in hostilities.

2. Degree of studying the research subject. The specialty literature has sufficient sources of information on general subjects related to public international law and the essence of international humanitarian law and international human rights law governing the social relations specific to contemporary armed conflicts.

With regard to private military and security companies, a number of scientific articles and research reports are available that generally present the place and role of these companies in armed

conflicts or tangentially analyze these subjects in the work on legal methods and means to wage war. In the light of the actuality and importance of the subject under analysis, we should point out that, currently, there is no fundamental work that would have as its object of research the legal status of private military and security companies in the light of specific elements of contemporary armed conflicts.

The phenomenon of private military and security companies in general and the legal regulation of their involvement in armed conflicts and internal tensions and disorders is one of the main research topics in the field of international humanitarian law, and the authors, whose works are analyzed in this research, reflects various aspects of this phenomenon, from the historical evolution to the analysis of the mechanisms and instruments of prosecution of these companies and their employees for violating the rules of international humanitarian law, a fact presented in paragraph 1 of chapter 1 of this paper.

The results of the analysis and research on the legal status of private military and security companies have been discussed at several relevant scientific events and reflected in articles published in specialized journals and collections of national and international scientific conferences.

3. Purpose of research. In terms of the importance and actuality of the research topic, the aim of this paper is to analyze the legal status of national military and private security companies at national and international level and to conduct a comprehensive investigation of the mechanisms and legal instruments of effective regulation and prevention and control of the negative effects generated by the increasingly active and direct involvement of these companies in contemporary armed conflicts in order to ensure compliance with the rules of international humanitarian law.

4. Objectives of reserach. In order to effectively achieve the proposed goal, the following main objectives of this research are set:

1. Analysis of the main reference works on the legal status of private military and security companies and the historical evolution of this phenomenon;

2. Determination of the evolution, status, and importance of legal regulations for the use of the private military and security companies services in the United States;

3. Research on the process of regulating the legal status of private military and security companies in European countries, in order to highlight good practices;

4. Analysis of the normative basis at the national level of some states on the African continent;

5. Determination of the legal status of employees of private military and security companies and the establishment of their qualification criteria;

6. Reflection of current trends in the regulation of the legal status of private military and security companies at the international level;

7. Impact establishment of the private military and security companies involvement in contemporary armed conflicts on the state's monopoly on the use of military force;

8. Assessment of the place and role of private military and security companies in armed conflicts in Iraq, Syria and Ukraine.

5. Research hypotheses. For the purpose of this research, we consider that the main **hypothesis** is that the direct and active involvement of private military and security companies in hostilities and tense situations is an indisputable reality, and the cooperation of states, international organizations and representative associations of these companies dictates the need of elaborating an international legal instrument agreed by all stakeholders to ensure compliance with the rules of international humanitarian law in contemporary armed conflicts.

6. Synthesis of the research methodology and justification of the chosen research methods. In the process of analyzing the legal status of private military and security companies, we used the following methods of scientific research, namely:

- the historical method, to highlight the specific stages and elements of the development and use of private structures in armed conflicts in the four periods of human development, pointing out the original characteristics of each stage and analyzing in historical context the place, role and degree of using private factor in hostilities;

- the comparative method allowed us to conduct a comparative study of the mechanisms and instruments for regulating the legal status of private military and security companies at the national level in several states in order to highlight both common elements of trends, initiatives, methods and regulatory mechanisms, as well as the comparative analysis of international legal instruments aimed at limiting, ordering and controlling the specific activities of these companies from logistical actions and preparation of a state's military contingent to direct participation in hostilities;

- the logical method, allowed us to research and critically analyze the normative provisions at national and international level in order to identify the main trends, directions and approaches to regulate the activity of private military and security companies in contemporary armed conflicts;

- the quantitative method was used in the context of systematization and highlighting normative and doctrinal sources that reflect the factual situation in this new international market of

private military and security services and their impact on the process of ensuring compliance with international humanitarian law in contemporary armed conflict;

- the prospective method, used to identify the most effective methods of cooperation between affected and interested states, international intergovernmental organizations and initiatives of associations representing private military and security companies in the difficult and difficult process of establishing and regulating international standards for managing the involvement of these actors in hostilities and tense situations;

- the systemic method allowed us to make a systemic analysis of the normative provisions regulating the process of preventing and combating the negative effects generated by the direct, uncontrolled and guided involvement exclusively by the material interest of these companies in almost all contemporary armed conflicts, within the legal system of international public law;

- the method of synthetic analysis proves to be indispensable in the process of formulating conclusions and recommendations.

7. Solved scientific matter consists in elucidating and arguing the need and importance of developing and adopting an international legal instrument that clearly establishes the legal status of private military and security companies and their employees in contemporary armed conflicts, describing the facts and identifying regulatory shortcomings both nationally and the impossibility of attempts at international regulation to establish the legal status of these private actors, disregarding their exclusively commercial interests and the divergent interests of states affected by armed conflict, in order to ensure compliance with the rules of international humanitarian law.

8. Scientific novelty and originality resides in the fact that the thesis is a comprehensive study that examines the evolution and essence of the legal status of private structures conventionally called private military and security companies in contemporary armed conflicts in order to comparatively analyze the mechanisms and instruments of legally regulating the activitiesof these entities nationally in the United States and some countries in Europe and Africa to highlight good practices in this regard, as well as attempts and initiatives to legally regulate these companies in states that are affected or involved in the latest armed conflicts, such as Ukraine and The Russian Federation.

The massive and aggressive presence of private military and security companies in contemporary armed conflicts whose sole purpose is to make a profit, the frequent violation of the principles of public international law and international humanitarian law by their employees, the lack of very clear and generally accepted criteria defining the status and clear regulation of the types of

activities allowed to be carried out and the association of private structures to coordinate their activities are arguments in favor of novelty, originality and the need for complex research on this subject.

The originality and novelty of the paper are also manifested by the complex analysis of the legal status of military and private security companies employees, through the prism of the categories of participants in hostilities, in order to prevent and combat the phenomenon of their direct participation in contemporary armed conflicts and the compliance with the rules of international humanitarian law. The novelty of the paper is manifested by the complex research of attempts to regulate the legal status of these companies and arguing the need to develop an international convention that would directly and in many ways regulate the legal status of this new category of omnipresent participants in contemporary armed conflicts.

2. SYNTHESIS OF CHAPTERS (CONTENT OF DOCTORAL THESIS)

The thesis entitled "The legal status of private military and security companies in contemporary armed conflicts" has a structure consisting of: introduction, 4 chapters, general conclusions and recommendations and bibliography.

The Chapter I **"Doctrinal analysis and evolution of the legal status of military and private security companies"** reflects the most important works that were the basis for conducting research on the legal status of private military and security companies and analyzes the most relevant stages of its emergence and the development of private structures and their place and role in armed conflict.

The paragraph 1.1. "*Analysis of the main reference works on the legal status of private military and security companies*" reflects the monographs and scientific articles of modern national and international doctrines that directly or indirectly research private and military private security companies in terms of compliance of international humanitarian law in armed conflict.

The specialized literature is sufficiently diverse in terms of the general directions of international humanitarian law study, but we cannot ascertain the presence of a fundamental work on the legal status of private military and security companies in the light of specific elements of contemporary armed conflicts.

The paragraph 1.2. "*The evolution of the legal status of private military and security companies*" researches the historical evolution of the place and role of private structures in armed

conflicts, in order to analyze complexly this phenomenon, from ancient civilizations to the Middle Ages, when in addition to participation of mercenaries in hostilities, the presence of well-organized private structures that acted in order to obtain material benefits, regardless of the nature and purpose of the armed conflict, may also be highlighted. In the contemporary period, especially after the Cold War, private military and security companies are developing at a rapid pace, and international legal regulations are virtually non-existent.

From ancient times to the present, in addition to the participation of mercenaries in hostilities, the presence of well-organized private structures that acted for the sole purpose of obtaining material benefits, regardless of the nature and purpose of the armed conflict, can be highlighted. In the contemporary period, especially after the Cold War, private military and security companies are developing at a rapid pace, and international and national legal regulations are proving to be insufficient.

In the light of the above, we find that these private actors in military social relations, regardless of the name or qualification offered by the concerned states, the beneficiary international organizations, the international attempts to regulate their activity, are part of everyday reality, and their presence in contemporary armed conflicts is becoming more intense and complex, which poses a number of challenges to the international law system in general and international humanitarian law in particular.

The Chapter II "**Legal regulation of the status of national military and private security companies**" examines the content and essence of the national legislation of different states in order to identify common elements, difficulties of adoption and implementation, efficiency and trends in the regulation of the status private military and security companies at national level.

The paragraph 2.1. "*Private military and security companies in the United States of America - evolution, legal regulation and prospects*" states the United States as the most important subject of international law that regulates and uses the services of private military and security companies nationwide. The United States of America closely regulates the activities of military and private security companies and makes use of the specific and complex services they provide to increase the military and operational capabilities of its own forces. These companies are directly or indirectly involved in most military operations, both official and non-governmental. There are also shortcomings and challenges posed by this process for the international humanitarian law system in general and for the legal settlement of these new subjects of contemporary armed conflict in particular.

The increase in the number of undeclared armed conflicts, in which there is actually an armed struggle between countries with the apparent maintenance of peaceful relations between them, stimulates the increase in the number of private military and security companies, more reminiscent of private mobile armies. At the same time, more and more states are delegating to the PMSC a limited right to armed violence in order to solve a growing range of tasks that "Western democracies" are uncomfortable with directly addressing, in the name of own, by using their own armed forces.

In this sense, the United States of America should require private military and security companies in its territory to be accredited or licensed independently. A likely source of this independent accreditation would be one of the many existing associations of private military and security companies. In fact, some of the associations have already launched limited regulatory and accreditation mechanisms. So far, however, the United States of America has not required any of its private military contractors in Iraq to receive such accreditations.

Licensing or accreditation would help to ensure the transparency of the company's activities and the contract. While the US has tried to license US-based companies, it has failed to properly monitor these companies once the license is issued. Only an international accreditation system is able to ensure quality private military and security companies, trained to carry out security missions. Thus, the US should make a concerted effort to encourage the use of these independent international systems and to use them on a timely basis as part of their contracts.

Even if the industry may not have been mature enough at the beginning of the Iraqi invasion to provide such a system of verification of private military companies, this can no longer be an excuse. In addition, while the costs of checking and monitoring Iraqi military and private security companies can be quite high, poor monitoring and surveillance leads to corruption and waste that is in itself quite costly. This is the right time for the industry to develop a program to accredit private military and security companies and to provide at least the minimum guarantees that they meet the basic standards. As the largest user of these forces, the United States should initiate the process by requesting independent international accreditation of the private military and security companies' contracts.

The paragraph 2.2. "*Legal regulation of the private military and security companies activities in European states*" reflects the evolution, essence and specific elements of the national regulations of the private military and security companies legal status in the national laws of Great Britain, France, Germany, Russia and the Republic of Moldova as the most relevant for the researched subject and to

highlight the achievements, practices and trends of management and assimilation of the private factor in the process of achieving the objectives of defense and national security.

Self-regulation and limited regulation would ensure diminished state control over such companies. In addition to the benefits of regulation and control, should the Green Charter be adopted, it will allow the British government to distinguish between the many private military and security companies present in the UK and ensure that those that pose a danger or a threat to the British government to be identified.

Unlike the British outsourcing policy, the German authorities have opted for short-term contracts, which should help limit reliance on PMSC and above all encourage these private companies to focus on customer needs if they want to renew the contract.

France has identified an ingenious solution. Structures that provide similar PMSC services are organized as joint ventures. Part of their statutory capital is controlled by the French state, and their activities are strictly monitored by the state through the Ministry of Defense or other state structures. Thus, formally, these companies are not private, and French law does not use the terms of private military company or private military and security company. The French law is very restrictive with regard to private security companies and detective companies and the right of their employees to carry firearms.

Unlike the US model for regulating PMSC activities, the Russian model, which is only at the project level, prohibits the employees of these companies from carrying out intelligence activities, participating in the maintenance of law and order, making detentions, arrests and interrogating detained persons.

We shall note also that from the set of national rules of the states under review, only the United Kingdom directly recognizes the existence of the PMSC and indirectly regulates their activity and emphasizes self-regulation, Germany, France and the Russian Federation, which are part of the Roman-German law family, do not have well-developed legislation on this subject and tacitly use or benefit from the services of these companies. However, both in France and in the Russian Federation we can see an increase in interest in PMSC and a clear tendency to recognize and regulate them.

Analyzing the situation in the European states allows us to conclude that the Republic of Moldova should review its national legislation in the sense of assimilating the positive practices of European states in order to prepare the necessary regulatory basis to assimilate the positive effects of cooperation with PMSC and to prevent and avoid negative effects generated by increasingly active

participation in contemporary armed conflicts, including in the armed conflict on the territory of the neighboring state, Ukraine.

The paragraph 2.3. "*The national normative-legal basis of the private military and security companies activities in some states on the African continent*" researches the legal regulation of the status of private military and security companies in the most relevant cases on the African continent in order to highlight specific elements and the need to ensure the implementation of the adopted normative provisions. The discussions about the need to take control of such a phenomenon as mercenarism have served as an impetus for the emergence and development of legislation both at national and continental level, first in the field of banning mercenaries and then in regulating the activities of private military and security companies.

Historically, the use of the services of private structures has been a key element in the policy of expanding the borders of empires. In the modern sense of the word, these forces can be called neither national nor social.

For a long time, the PMSC longed to settle in Africa. The continent offers them many opportunities: the protection of sensitive people and infrastructure in unstable areas, the fight against piracy on merchant ships in the Indian Ocean, and even informal participation in armed conflict and tense situations.

In some African states, the number of employees of private military and security companies exceeds the number of persons employed in the service of the state responsible for ensuring public order and rule of law. Also, the material equipment, logistics and training of the employees of these companies is clearly superior to the equipment of the state structures, which generates a dependence of the state structures on the military and private security companies.

Despite fairly well-developed national legislation in the African continent, their inability to ensure the effective implementation of these regulations may be ascertained, which makes this area most often affected by both armed conflict and the presence of private military security and companies disrespecting these provisions.

The Chapter III "**Imperatives and difficulties in legally regulating activities characteristic to private military and security companies at the international level**" reflects the main results of the research of the legal status of employees of private military companies in contemporary armed conflicts; it also researches the main criteria of classifying the private military and security companies

and analyzes the most important international regulatory initiatives related to the phenomenon of direct involvement of private military and security companies in contemporary armed conflicts

The paragraph 3.1. "*Qualification of the legal status of employees of private military and security companies*" elucidates the rights and obligations of the military and private security companies personnel in case of direct participation in hostilities characteristic to contemporary armed conflicts, in view of the legal status of: combatants, mercenaries, civilians accompanying the armed forces and civilians.

The simplest way to provide legal status to PMSC employees directly involved in hostilities would be to enlist in the regular armed forces of the warring party. However, the method of enlisting PMSC employees proves to be practically inapplicable in the realities specific to contemporary armed conflicts.

Qualifying PMSC employees as mercenaries is proving to be extremely difficult for the courts as long as finding and proving the cumulative criteria set out in Article 47 of Additional Protocol I and the 1989 Convention is very difficult to achieve under the conditions of everyday realities.

The status of persons pursuing the armed forces is only a procedure to evade their responsibility for direct participation in hostilities and the intention to obtain the status of prisoner of war, the employing state having every opportunity to issue such permits, which would contribute to camouflage PMSC activities and their employees.

As long as the actions of PMSC employees cannot be qualified as direct participation in hostilities, a notion that does not have a definition or description formalized in the text of an international treaty, these persons may be qualified as civilians and protected in accordance with the requirements of the IV Geneva Convention.

If the PMSC employee cannot be qualified as a combatant, mercenary, person following the armed forces or a civilian, this person is to be qualified as an illegal participant in hostilities, a fact reprehensible both internationally and nationally in the case of non-international armed conflicts.

Thus, PMSC employees may have combatant or civilian status during international armed conflicts. As this status is not predetermined, it will have to be analyzed on a case-by-case basis according to the various criteria already presented. Therefore, this status will vary and all PMSC employees working in the realities of an international armed conflict will not have the same status. The employees of the same company operating in the same conflict may even have different statuses. For example, if some are integrated into the armed forces of a party to the conflict, others are not. This

situation makes difficult to determine the status of these people and therefore the protection to which they are entitled. Indeed, it is impossible to determine a priori the status of a PMSC employee in the context of an international armed conflict. A detailed and in-depth analysis of each case will be required.

The situation in non-international armed conflicts is somewhat different. Indeed, the rules of international humanitarian law applicable during non-international armed conflict do not recognize combatant status. As these conflicts are of an internal nature in which a government fights against people in its territory or groups of people in the same state, national law plays a more important role.

The paragraph 3.2. "*Current trends in the legal status of private military and security companies*" examines the correlation between the duties, obligations of non-governmental actors and their legal status in accordance with the provisions of international humanitarian law, as well as legal documents and instruments intended to regulate legal capacity of private military and security companies; it researches matters related to the implementation of the rules described in the documents proposed by the international community and reflects the initiatives of the United Nations to ensure the practical implementation of these provisions.

The international institutions and bodies are currently hiring these private actors to provide military and security services, admitting employees of these entities to hold public sector positions, both in actions related to direct participation in military operations and in assistance actions, in order to ensure the efficient conduct of military operations.

This is the first instrument that delimits the legal status of private military actors and the applicability of international humanitarian law to them in armed conflicts. This document is also intended to help states to comply with their international obligations at the national level, ensuring the supervision, regulation of actions and liability of non-state military actors.

The purpose of this document was:

- to initiate an awareness of positive practices, of the regulatory methods practiced in the international arena and applied at national level; and

- to clarify the characteristics of existing obligations of signatory states, international organizations and to define the legal status of the PMSC at national level.

Until today, there are more than 30 contracting countries that comply with the rules of the document, even if this document is not a legally binding instrument and does not affect the existing obligations of States under customary international law.

The first part of this document defines the types of relationships between states and private military and security companies, in particular in order to establish the recognition of companies as private entities employed by a particular state. In order to recognize the legal status of a PMSC, its liability must be defined as being in close connection with the Contracting States. However, as seen in the case of Nicaragua v. The United States, the International Court of Justice has had difficulty connecting the activities of private military and security companies with the Contracting States or any government in this regard.

The Montreux document is thus based on a combination of binding legal rules, based on the premise that the state has a monopoly on legitimate violence and flexible rules that reflect a growing consideration by the international community of the increasing use of PMSC in theaters of operations, as well as a finding that these non-state entities cannot be governed without their consent.

The Code of Conduct does not introduce new provisions into the existing system of international law, it has the character of a recommendation, but it still paves the way for the legalization of private military and security companies at the international level. The code contains specific rules of conduct for PMSC employees in hostilities, as well as articles on the conclusion of any type of contract in the field of military service at the international level. The applicability of the International Code of Conduct to private military companies and their personnel is also of particular importance.

The Code of Conduct was the second attempt to regulate the activity of private military and security companies by establishing the status of personnel in accordance with national laws, as well as the requirements of international humanitarian law. This document was intended to draw a clear line between the public and private sectors and to eliminate the difficulties posed by the use of civilians with experience in military operations in hostilities or military operations, including the liability of PMSC employees for violating the rules of international humanitarian law.

The Montreux document and the Code of Conduct consist of a number of very useful rules for states in the process of regulating legal relations between them and the PMSC, but they are not binding on them, which allows states to evade liability for breaches of the international humanitarian law rules by the employees of these companies involved in military actions in various armed conflicts or sensitive situations.

The idea of creating a Providers Directorate for this type of service, under the leadership of the UN Secretary-General, is closely linked to the trend between PMSC policy initiatives and the

variety of implications for their military operations. This Directorate could be part of the Department of Peacekeeping Operations or Field Assistance.

This would most likely cause discomfort for the Secretary-General's office, and would therefore lead to the same scenario as in the last 20 years, in which Member States' interests affect the Secretary-General's decision on the conduct and establishment of the legal status of the PMSC employees under international humanitarian law.

The intention to regulate the activity of the PMSC is seen as an instrument to ensure the application of criminal justice at the international level. The lack of criminal sanctions applied agaisnt PMSC employees at the national and international levels for serious violations of international law found in hostilities in Afghanistan and Iraq underscores the need to regulate the criminal liability of PMSC employees involved or who may be involved in specific missions within peacekeeping operations under the auspices of the UN.

For the past 20 years, there has been an initiative to establish the criminal liability of those responsible for the PMSC for the actions of subordinates both nationally and internationally, but the difficulty of prosecution lies in different interpretations of their legal status and their role in military operations. The United Nations has sought to persuade the Contracting States to apply the necessary measures to penalize the employees of such companies as civilians who have participated illegally in hostilities.

The paragraph 3.3. "*Assessing the impact of the involvement of private entities in contemporary armed conflicts on the monopoly of using the military force*". The active participation of private military and security companies in contemporary armed conflicts has a strong impact on the monopoly of using the military force. The mechanisms, procedures and scenarios for collaboration between States and private military and security companies in order to carry out functions that belonged exclusively to state structures shall be the subject of research in this paragraph.

Being primarily a commercially oriented entity, with a degree of legal independence from the political-military strategy of states, the PMSC often acts as representatives of transnational corporations and, in some cases, may be requested by terrorist and extremist organizations, communities and opposition groups and transnational mafia-type criminal formations.

The legal framework of the PMSC is described by the interaction between international and national law and the instruments characteristic of corporate social responsibility in an extremely

sensitive field, at the limit of the prerogatives of public power. This raises the issue of the role of corporate social responsibility and legal norms in regulating PMSC activities and their liability.

Along with this very important aspect of the state's monopoly on the use of force and in view of its essence, we must also analyze the state's ability to prosecute those who prove to be responsible for violating the rules of international humanitarian law by committing international crimes.

The biggest changes are to be made by the national criminal law of the states, which will have to undertake specific legal and other measures in order to establish its jurisdiction over the crimes committed by PMSC employees in the process of performing their professional duties and to ensure the enforcement of jurisdiction over such offenses, both before the courts of the offender's country of origin and before the courts of the State in whose territory the offender committed the offense.

Although using the services of private military and security companies by states affects their monopoly on the use of force, the outsourcing of tasks and responsibilities that until recently belonged exclusively to the state is a reality of the 21st century, and the tasks related to defense and security are not an exception.

Impetuously speaking, depending on the approach and attitude of a state, on the limits of its own sovereignty and its implication in everyday life, this paradigm may prove to be extremely different from one state to another. From the point of view of public international law, all States are equal in rights and independent in their actions within the limits set by mandatory and conventional rules adopted through strictly established procedures.

Each State as a subject of public international law has the possibility, through the adoption of normative acts specific to its form of government and political regime, to adopt through its competent structures an exhaustive list of tasks and functions inherent to it and which cannot be outsourced or delegated to entities other than the state ones. In this case, the state's monopoly on the use of force in general and the use of armed force in particular is not affected.

The Chapter IV "**Legal Challenges Generated by the Involvement of Private Military and Security Companies in Contemporary Armed Conflict. Case study**" investigates the importance and degree of involvement of private military and security companies in the most relevant armed conflicts of the 21st century and the consequences of active participation both for the affected states and for the entire system of regulation and compliance with the rules of international humanitarian law.

The paragraph 4.1. "*The Role of Private Actors in the Armed Conflict in Iraq*" examines the importance and intensity of the private military and security companies involvement in Iraq, in order to systematize the consequences and legal challenges generated by it for the entire system of ensuring compliance with international humanitarian law within contemporary armed conflicts.

Following the Vietnam War, when the private sector served as a producer of weapons and logistics materials during the war, private military companies ascertained a rapid increase in the demand for military personnel to participate in the armed conflict in Iraq. For example, during World War II, there was a massive demand for trained pilots to pilot warplanes, so aviation companies were hired to train pilots effectively and quickly.

The continued presence of the military and private security forces in Iraq is generating a controversial attitude in the international arena. Thousands of people have been killed and maimed in the city of Fallujab, and the involvement of the PMSC in both Abu Ghraib prison abuse and attacks on civilian vehicles has illustrated the controversial role of private military and security companies. At the domestic level, the growth and diversification of activities carried out by private companies in Iraq, as well as the increase in customer demand, has generated a tendency both locally and internationally to adopt normative acts at the national level to control the activity of these companies operating both locally and abroad, due to the massive privatization of these specific services.

The globalization is leading to the transformation of armed conflict and the demand for third parties to provide strength, training and equipment. The reason why the private military industry is expanding is because private actors avoid liability under international humanitarian law and it presents itself as an extraordinary business opportunity that generates substantial revenue.

The paragraph 4.2. "*The effects of the private military and security companies involvement in the armed conflict in Syria*". The lack of international regulations defining the legal status of private military and security companies and their employees, the lack of an effective mechanism to hold both employees of these companies liable for serious violations of the rules of international humanitarian law and states secretely contracting these services lead to an increase in the number of such participants in contemporary armed conflicts. This paragraph reflects the place and role of private military and security companies in military operations by all actors involved and the effects of using such services in the armed conflict in Syria.

Syria, as well as Iraq or Ukraine, are the best examples to analyze the scope of agreements between recruiting governments and private military and security companies providing a wide range

of services, from direct participation in hostilities to complex operations to prevent social threats and intimidate citizens' civic initiatives in order to ensure the governance of a particular person or party.

The purpose of hiring private military and security companies varies from region to region and state to state. In addition to securing the authority of a particular political regime, non-state actors are deployed in countries such as Syria to assist local forces in the process of properly preparing and securing weapons and ammunition for hostilities against ISIS. In such countries, private military and security companies are contracted as the direct involvement of the state in such actions would most likely be politically suspicious and reprehensible under international law.

Meanwhile, the growing number of private actors in Syria is turning the country's territory into an area of hostilities, in which they frequently fight against each other because of the opposing interests of the contracting states.

The activity of private military and security companies in third world countries, such as Syria, is meant to inhibit political opponents and/or ensure the authority of a regime.

In this sense, the Syrian government has little chance of ever considering restricting or controlling the activities of private military and security contractors, as this would make the Syrian state responsible for serious violations of international humanitarian law by them. Also, the more vague and superficial is the relationship between the state and the PMSC, the less the Syrian society knows about the government's collaboration with private military actors in order to carry out military actions in hostilities.

The paragraph 4.3. „*Legal Consequences of the Participation of Private Military and Security Companies in the Armed Conflict in Ukraine*" examines the legal challenges regarding the interpretation of the national legislation applicable to military operations in Ukraine, as well as the legal concerns and discrepancies regarding the classification of private military and security companies in international armed conflicts or internal tensions. The precedents of Alexander Alexandrov and Yevgeny Yerofeyev in 2016 for the Ukrainian judiciary system and for prosecuting foreign nationals directly involved in hostilities and attempting to regulate the legal status of private military companies in Ukraine are also presented and investigated.

From February to March 2014, private companies from the USA, Poland and the United Kingdom operated in the country on the basis of contracts with the government in Kiev. They perform a number of functions such as: operational and strategic planning, command and personnel training,

protection of individuals and private buildings. There is no reliable information on the direct participation of employees of these private military and security companies in hostilities.

One of the challenges facing national and international law due to the direct participation of private employees in hostilities in foreign territories is the uncertainty of applying the national criminal law. The circumstances are of big importance when it comes to the applicability and enforceability of Ukrainian criminal law. The circumstances are the main factor in determining whether the activities of these armed persons who have been directly involved in operations to instigate national armed conflicts in foreign territories or the conduct of hostilities at the behest of former trained foreign soldiers who are “volunteers” in foreign territory.

Despite all the judicial challenges and the increased use of private military participants in Ukraine for the purpose of instigating and carrying out violent hostilities, the government should be more willing to better train its legal advisers in the armed forces, law enforcement officers and judges in terms of their competences in the field of international law, international human rights law and international humanitarian law. In addition, Ukrainian lawyers should fully implement the provisions of international criminal law in domestic criminal law.

While international humanitarian law is a concept underestimated by military and legal practitioners, implementing its rules in a state’s national criminal law could only have a major preventive effect on the involvement of private military and security companies in hostilities.

3. GENERAL CONCLUSIONS AND RECOMMENDATIONS

Achieving the **aim** of analyzing the legal status of private military and security companies at national and international level and conducting a complex investigation of the mechanisms and legal instruments of effective regulation and of preventing and combating the negative effects generated by increasingly active and direct involvement of these companies in contemporary armed conflicts in order to ensure compliance with the rules of international humanitarian law, we have formulated the following **general conclusions:**

1. The analysis of the specialized works allows us to find that there is a sufficient volume of scientific papers on general topics on international instruments that regulate the liability of employees of private military and security companies involved in armed conflicts. At the same time, we cannot ascertain the existence of fundamental work on the interaction between Member States and international bodies in the process of preventing and mitigating the negative effects and regulating the liability for the abusive activity of these companies.

The historical evolution of the phenomenon of private factor involvement proves to be similar, but far identical with the emergence and development of mercenarism. The legal forms of organizing military activities and ensuring security in armed conflicts can be found in all periods of human development, and their place in the contemporary period, especially after World War II, it knew the development and transformation generated by the effects of technical and scientific progress, the informal interests of the beneficiary states and the interest of some financial groups in the armed conflict as one of the most profitable businesses of the moment.

2. The state's attempt to secure its monopoly exclusively on the use of violence in order to achieve national interests at the international level and to maintain order at the national level has generated several initiatives to regulate at national level the place and role of the private factor in the construction, maintenance and efficient use of national armed forces. The United States is today the subject of international law with the largest number of nationally registered military and private security companies, and by far the largest budget for outsourcing specific services to the armed forces. These circumstances have given rise to the most complex system of legal rules at national level regulating the types of activities, procedures for registration, licensing, control and sanctioning of such companies.

Also, the analysis of open and available sources of information qualifies the US as the largest beneficiary of this specific type of service from both US and foreign companies, and the vast majority of tasks delegated to PMSC have been and are performed outside the US. However, the United States has not taken any specific action that would help build a system of international legal rules governing the legal status of private military and security companies.

3. Analyzing the process of regulating the legal status of private military and security companies in European countries shows that the approaches are very different. The Great Britain, which has a history of imperial and colonial history for centuries, used the services of these companies during the construction and maintenance of its colonial empire, however the legal regulation of the PMSC status proves to be very prudent, and at the official level, the government considers that self-regulation is the most correct and appropriate approach. This would allow PMSC to set its own standards and targets depending on market interests and requirements, and the government is to establish minimum conditions for registration and control over them.

At the other extreme, France and Germany do not recognize or regulate the legal status of the PMSC and advocate for the maintenance of the state's exclusive monopoly on the use of violence, but this does not prevent the French state from benefiting from the services of these companies in case of need, especially within discreet interventions in tense situations on the territory of the former colonies and beyond. In France, companies that fall under the name of private military and security companies have majority state capital, which is an original approach of the French state in regulating the use of these private structures in contemporary armed conflicts. The Russian Federation, while providing and benefiting from the services of well-trained and highly efficient private military and security structures, has not yet enacted a law regulating this segment.

4. The African continent is the area with the highest density of armed conflicts and tense situations that regularly involve the use of firearms, which makes a substantial part of the tasks to be performed by the PMSC to be located on this continent. The instability of the mainland states governments, the high degree of corruption in the decision-making process, the presence of natural resources of increased interest, the lack of well-organized national armies and the inability of regional organizations to meet the security objective on the continent create the best conditions for the development of modern PMSC. Despite attempts to legalize the legal status of the PMSC as clearly as possible at the national level, their involvement in both armed conflicts on the continent and in illegal actions to overthrow the government or change leaders is a characteristic part of reality in

Africa. In some African countries, the number of employees of private military and security companies exceeds the national police contingent, and their staff is significantly lower.

Only the joint efforts of the affected states, under the auspices of regional organizations, by assimilating good practices, could provide a chance to overcome this crisis that has been perpetuated since the 1960s of 20th century.

5. Ideally, the PMSC employee should not be directly involved in hostilities in any way. If a state needs these human resources, it must enlist them, thus ensuring them combatant status and, consequently, the status of prisoner of war, and if they are foreign nationals, this scenario is not applicable. The direct participation in hostilities of PMSC employees, which has a contract with the beneficiary state, does not exempt its employees from the obligation not to participate directly in hostilities. The direct participation in hostilities of PMSC employees, in case there is no nominal order for their enlistment in the regular armed forces of the belligerent state, can be qualified as patronage, in case of finding the cumulative presence of the six qualification criteria established in the article 47 of the PA I of 1977 or are classified as illegal participants in hostilities, with all the legal consequences of this.

The legal norms related to the regulation of the status of mercenary apply, by analogy, also in non-international armed conflicts, and PMSC employees do not have immunity from the national law on whose territory they act, unless this immunity is established in strict accordance with the bilateral agreement between the delegating State and the State on whose territory the person is active. Exceeding or violating the conditions for granting and guaranteeing immunity deprives the beneficiary of immunity and allows it to be held liable under the national law of the State on whose territory the violation occurred. Regardless of the status and circumstances, all participants must know and respect the provisions of the rules of international humanitarian law, and in the case of war crimes or crimes against humanity, they are not prescribed.

6. In essence, both the Montreux Document and the Code of Conduct and the text of the draft Convention developed under the auspices of the UN contain the same objectives and approaches to regulating the legal status of the PMSC. However, the recommendation or non-binding nature of these provisions proves to be insufficient to meet the challenges posed by the increasingly massive and aggressive presence of the PMSC in contemporary armed conflicts.

7. From a legal point of view, the state has a monopoly on the use of force, but the realities and specificities generated by the active and systemic involvement of the PMSC in contemporary

armed conflicts directly contribute to diminishing the effectiveness of this monopoly. Only a distinct approach to each state, depending on the national interest and capabilities of the national armed forces in the three scenarios analyzed, or a symbiosis of them could provide a balanced approach between the implementation of state-specific functions and the benefits generated by their outsourcing procedure, which would allow to ensure and perpetuate the monopoly of the states on the use of military force, exclusively for the purpose of achieving national interests. Denying and avoiding the prompt resolution of this challenge could have profound and lasting effects on the state's ability to perform functions that until recently were considered to be exclusively ethical.

8. The post-factum analysis of the armed conflict in Iraq allows us to see a real "privatization" of it. The PMSC proved to be present both in the hottest military operations in the active phase of the conflict and in the post-conflict period. The legal relations between national law and US PMSC employees under the intergovernmental agreement granting them immunity from national law, subject to very vague conditions, set a dangerous precedent not only for the process of ensuring compliance with international humanitarian law in contemporary armed conflicts, but also for the modest attempt to regulate PMSC activities at the international level.

9. Syria is a precedent for hostilities in which foreign private military actors have been hired to carry out political operations. The density of the PMSC presence in Syria is not lower than in Iraq, and the inability of the Syrian state to adopt and implement strict rules for the use of this type of service has led to the most serious violations of international humanitarian law, especially by PMSC employees, who understand that they can be held liable for acts committed in these territories only by the States Parties which do not have such an interest or by the international system of repression of such violations, which still proves to be unable to prevent and combat these phenomena. This inability is caused by the unwillingness of local governments to regulate and establish the responsibility of non-state actors, as well as by the fact that third world countries are not members of international instruments.

10. Ukraine is another European state that does not yet have a national law governing the specific social realities generated by the direct involvement of the PMSC in armed conflicts. Following the active phase of the armed conflict in Eastern Ukraine, the legislators of this state have initiated a draft law in this regard. Under these conditions, the PMSC are increasingly present in the conflict zone and perform tasks that can be qualified as direct participation in hostilities in the interests of both warring parties. As a result, international organizations are closely monitoring the state's

inability to control and prosecute civilians directly involved in hostilities, but refrain from delegating peacekeeping troops, which is in the best interests of foreign contractors specializing in military service and private security.

The scientific problem solved is to elucidate and argue the need and importance of developing and adopting an international legal instrument that clearly establishes the legal status of private military and security companies and their employees in contemporary armed conflicts, describing the facts and identifying regulatory shortcomings at the national level as well as the impossibility of attempts at international regulation to establish the legal status of these private actors, disregarding their exclusively commercial interests and the divergent interests of states affected by armed conflict, in order to ensure compliance with international humanitarian law.

Following the research, we proposes the following **recommendations:**

1. Due to the divergent interests of states with very consistent regular armed forces, the prospect of drafting and adopting an international convention within the United Nations that would regulate the legal status of the PMSC is unlikely but absolutely necessary. However, the growth in demand for these services, the confidential interests of the beneficiary countries, the lack of clear rules in this industry, the increasing role and place of the associations formed by some of these companies in the process of lobbying their own interests, both at at national and international level, gives contemporary armed conflict a deep commercial aspect, and the international legal system, which aims at ensuring respect for human rights and international humanitarian law in contemporary armed conflict, is a specific feature of a set of formal rules, without a tool or a clear perspective to ensure compliance with their provisions.

2. The development and adoption of legislation in the Russian Federation and Ukraine that would regulate the legal status of private military and security companies and the mechanisms and tools for holding their employees directly involved in hostilities liable. This would allow the states involved and affected by the armed conflict to provide a legal instrument that would allow them to effectively manage both nationally and foreign-registered PMSCs that provide services in their territories.

3. Analyzing the specifics of the situation on the African continent, we can see that the interests of states with huge economic potential in this region, the presence of very important natural resources, the inability of states on the continent to achieve a formal monopoly on the use of violence to achieve

protection and security to its own citizens and its own resources, the political instability generated by the lack of experience of democratic governance and the violent changes of governments and local leaders form the most favorable conditions for the prosperity of entities specialized in providing security and defense services. In these circumstances, only a firm initiative by the African Union and the Member States to adopt a Convention that would regulate the legal status of the PMSC in terms of the specifics and challenges facing African states would be the mechanism that would allow the regulation and effective state control over PMSC activities on the continent.

4. The national legal regulation of the PMSC legal status in Iraq and Syria, which would have as a priority the establishment of limits, conditions and types of interventions that can be carried out by the PMSC and would clearly and unequivocally establish the priority of national criminal law in case of violation of the international humanitarian law and criminal law rules, would allow the discontinuity of the absolutely dangerous and harmful precedent of granting immunity to persons who do not fall, in any form, within the limits established by the rules of diplomatic and consular law, would also ensure compliance with the normative provisions of international human rights law and international humanitarian law.

5. The Republic of Moldova must consider the possibility of expressly regulating elements that guarantee the exclusive monopoly of the state to use force and provide in the text of the new National Security Strategy this phenomenon of PMSC presence and involvement in armed conflicts as a potential risk or threat to the status of neutrality, as well as to its independence and security. Denying this phenomenon would be a crucial mistake that could have a severe negative effect on the process of ensuring the security and defense of the Republic of Moldova.

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ADNOTARE

La teza de doctor în drept a Doamnei Zacon Corina

”Statutul juridic al companiilor militare și de securitate private în cadrul conflictelor armate contemporane”

Universitatea Liberă Internațională din Moldova, Chișinău, 2021

Structura tezei. Teza cuprinde: introducere, 4 capitole, concluzii generale și recomandări, bibliografia din 358 surse, text de bază 171 pagini. Rezultatele obținute sunt reflectate în 9 articole științifice.

Cuvinte cheie: drept internațional umanitar, companii militare și de securitate private, combatanți, mercenari, persoane civile, reglementare juridică națională, Documentul Montreux, Codul internațional de Conduită, conflictele armate din Irak, Siria și Ucraina.

Domeniul de studiu este cercetarea prevederilor normative naționale și internaționale asupra statutului juridic al companiilor militare și de securitate private în cadrul conflictelor armate contemporane, prin prisma analizei realităților specifice conflictelor armate din Irak, Siria și Ucraina.

Scopul lucrării este de a analiza statutul juridic al companiilor militare și de securitate private la nivel național și internațional și de a realiza o cercetare complexă a mecanismelor și instrumentelor juridice de reglementare eficientă și de prevenire și combatere a efectelor negative generate de implicarea tot mai activă și directă a acestor companii în conflictele armate contemporane în vederea asigurării respectării normelor dreptului internațional umanitar.

Obiectivele cercetării: Analiza principalelor lucrări de referință asupra statutului juridic al companiilor militare și de securitate private și a evoluției istorice a acestui fenomen; Determinarea evoluției, statutului și importanței reglementarilor juridice ale utilizării serviciilor companiilor militare și de securitate private în Statele Unite ale Americii; Cercetarea procesului de reglementare a statutului juridic al companiilor militare și de securitate private în statele europene, în vederea evidențierii bunelor practici; Analiza bazei normative la nivelul național al unor state de pe continentul African; Determinarea statutului juridic al angajaților companiilor militare și de securitate private și stabilirea criteriilor de calificare a acestora; Reflectarea tendințelor actuale în materie de reglementare a statutului juridic al companiilor militare și de securitate private la nivel internațional; Stabilirea impactului implicării companiilor militare și de securitate private în cadrul conflictelor armate contemporane asupra monopolului statului de utilizare a forței militare; Apreciarea locului și rolului companiilor militare și de securitate private în cadrul conflictelor armate din: Irak, Siria și Ucraina.

Noutatea și originalitatea științifică rezidă în faptul că teza constituie un studiu amplu în cadrul căruia se cercetează evoluția și esența statutului juridic al structurilor private denumite convențional companii militare și de securitate private în cadrul conflictelor armate contemporane cu scopul de a analiza comparativ mecanismele și instrumentele de reglementare juridică a activităților acestor entități la nivel național în SUA și unele state din Europa și Africa pentru a evidenția bunele practici în acest sens, precum și tentativele și inițiativele de reglementare juridică a acestor companii în statele care sunt afectate sau implicate în cele mai recente conflicte armate,

Rezultatele obținute care contribuie la soluționarea unei probleme științifice importante constă în elucidarea și argumentarea necesității și importanței elaborării și adoptării unui instrument juridic internațional care să stabilească clar statutul juridic al companiilor militare și de securitate private și a angajaților acestora în cadrul conflictelor armate contemporane, descriind situația de fapt și identificînd deficiențele normative atât la nivel național cât și imposibilitatea tentativelor de reglementare la nivel internațional de a stabili statutul jurdic al acestor actori privați, făcînd abstracție de interesele exclusiv comerciale ale acestora și a intereselor divergente ale statelor afectate de conflicte armate, în vederea asigurării respectării normelor dreptului internațional umanitar.

Semnificația teoretică a cercetării constă în realizarea unui studiu amplu asupra prevederilor normative naționale și internaționale în ceea ce ține de determinarea statutului juridic al companiilor militare și de securitate private și a angajaților acestora în cadrul conflictelor armate, prin prisma experiențelor furnizate de conflictele armate din Irak, Siria și Ucraina.

Valoarea aplicativă **a lucrării** se materializează prin posibilitatea de a utiliza atît materialul factologic cît și cel analitic pentru a suplini materialele didactico-științifice necesare pentru instruirea studenților de la facultățile de drept și pentru a facilita procesului de elaborare a reglementărilor juridice asupra statutului juridic al companiilor militare și de securitate private la nivel național și internațional.

Implementarea rezultatelor științifice. Rezultatele cercetării realizate au fost prezentate în cadrul lucrărilor a două conferințe științifice internaționale și au fost reflectate în textul a cinci articole științifice publicate în revistele de profil din țară și în cadrul a două reviste științifice internaționale.

ANNOTATION

To Doctoral Theses in Law of Mrs. Zacon Corina

"Legal Status of Private Military and Security Companies in Contemporary Armed Conflicts"

Free International University of Moldova, Chisinau, 2022

Thesis structure. The thesis includes: introduction, 4 chapters, general conclusions and recommendations, bibliography of 358 sources, basic text 171 pages. The obtained results are reflected in 9 scientific articles.

Key words: international humanitarian law, private military and security companies, combatants, mercenaries, civilians, national legal regulations, the Montreux Document, the International Code of Conduct, the armed conflicts in Iraq, Syria and Ukraine.

The field of study is the investigation of national and international normative provisions on the legal status of private military and security companies in contemporary armed conflicts, through the analysis of the specific realities of armed conflicts in Iraq, Syria and Ukraine.

The purpose of paper is to analyze the legal status of private military and security companies at national and international level and to conduct a comprehensive investigation of the mechanisms and legal instruments of effective regulation and to prevent and combat the negative effects of increasing active and direct involvement of private and military security companies in contemporary armed conflicts in order to ensure compliance with the rules of international humanitarian law.

The objectives of research: Analysis of the main reference works on the legal status of military and private security companies and the historical evolution of this phenomenon; Determining the evolution, status, and importance of legal regulations for using the services of private military and security companies in the United States; Research on the process of regulating the legal status of private military and security companies in European countries in order to highlight good practices; Analysis of the normative basis at the national level of some states on the African continent; Determining the legal status of employees of private military and security companies and establishing their qualification criteria; Reflecting current trends in the regulation of the legal status of private military and security companies at the international level; Establishing the impact of the private military and security companies' involvement in contemporary armed conflicts on the state's monopoly as for the use of military force; Assessing the place and role of private military and security companies in armed conflicts in Iraq, Syria and Ukraine.

The novelty and scientific originality lies in the fact that the thesis is an extensive study that investigates the evolution and essence of the legal status of private structures conventionally called private military and security companies in contemporary armed conflicts in order to comparatively analyze regulatory mechanisms and instruments of the legal activities of these entities at the national level in the US and some countries in Europe and Africa to highlight good practices in this regard, as well as attempts and initiatives to legally regulate these companies in states where they are affected or involved in.

The obtained results that contribute to solving an important scientific problem consist in elucidating and arguing the need and importance of developing and adopting an international legal instrument that clearly establishes the legal status of private military and security companies and their employees in contemporary armed conflicts, describing the situation in fact, by identifying both national and international regulatory deficiencies and the impossibility of international regulatory attempts to establish the legal status of these private actors, disregarding their exclusively commercial interests and the divergent interests of states affected by armed conflict, to ensure compliance with the rules of international humanitarian law.

The theoretical significance of the research lies in conducting a comprehensive study of national and international regulations regarding the determination of the legal status of private military and security companies and their employees in armed conflicts, in the light of experiences provided by armed conflicts in Iraq, Syria and Ukraine.

The applicative value of the paper materializes through the possibility of using both factual and analytical material to supplement the didactic-scientific materials necessary for the training of law students and to facilitate the process of drafting legal regulations on the legal status of private military and security companies nationally and internationally.

Implementation of scientific results. The results of the research were presented within the works of *two* international scientific conferences and were reflected in *five* scientific articles published in specialized journals in the country and in *two* international scientific journals.

ZACON CORINA

LEGAL STATUS OF PRIVATE MILITARY AND SECURITY COMPANIES IN CONTEMPORARY ARMED CONFLICT

SPECIALTY 552.08 – INTERNATIONAL AND EUROPEAN PUBLIC LAW

ABSTRACT
Doctoral thesis in law

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