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# LEGAL REGULATIONS REGARDING THE PHENOMENON OF THE ACTIVITY OF FOREIGN SOLDIERS, ACCORDING TO THE LEGISLATION OF THE REPUBLIC OF MOLDOVA

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***Abstract:*** *Legal regulations on the activity of foreign soldiers in the Republic of Moldova represent a complex area, which is located at the intersection of national law, international law and national security norms. The phenomenon of the involvement of foreign soldiers on the territory of a sovereign state raises legal, political and social issues, and the legislative framework of the Republic of Moldova clearly regulates both their rights and obligations. This framework includes constitutional provisions on the sovereignty and territorial integrity of the state, specific legislation on national defense and security, as well as regulations on international military cooperation. At the same time, the Republic of Moldova is a party to various international treaties and agreements that influence the way in which foreign soldiers carry out their activities, including the principles of respect for human rights and limitation of the use of force. The regulations cover multiple aspects: authorizing the presence of foreign soldiers, the areas in which they can carry out activities, the limits of their powers, legal responsibilities in case of violation of the law and mechanisms for controlling their activities. The obligations of the host state towards public safety, legal order and protection of citizens' rights are also clarified, balancing the need for international cooperation with respect for national sovereignty. Thus, the study of legal regulations regarding the phenomenon of the activity of foreign soldiers in the Republic of Moldova provides a complete picture of how national legislation harmonizes security requirements, international cooperation and respect for the fundamental rights of the individual, creating a clear and predictable legal framework for the presence and activity of foreign military personnel on the territory of the country.*

***Keywords:*** *legal norm, illegal activity, foreign soldier, state territory, national security, combat, international cooperation.*

## Introduction

The principle of the priority of international legal norms assumes that the legislation of a state is made up of two interdependent legal systems: domestic law and international law. Both constitute a unitary whole of the national legislative framework, but in situations where there is a conflict between the norms of the two systems, priority is given to the norms of international law.

This priority reflects the recognition of the role and obligations of states towards the international community, ensuring the conformity of domestic legislation with international

treaties and agreements to which the state is a party. In practice, this principle guarantees that international regulations prevail in the event of a contradiction with domestic legislation, thus contributing to maintaining the stability of international relations and compliance with universal norms of law. Therefore, the harmonization of domestic law with international law becomes an essential condition for the coherent functioning of the legal system of any state.

The principle of the priority of international legal norms represents a fundamental pillar of the contemporary legal system, according to which the legislation of a state is structured on two interdependent levels: domestic law and international law. These two components constitute a unified whole, and in situations where there are contradictions between their norms, priority is given to the norms of international law.

The application of this principle reflects the state's commitments to the international community, ensuring compliance with international treaties and conventions to which it is a party. The priority of international law guarantees the coherence of national legislation with global norms, supporting the stability of international relations and the protection of universal rights and obligations. Thus, the harmonization of domestic and international law becomes essential for the efficient and predictable functioning of the state's legal system.

**Basic content**

The priority of international legal norms implies that the legislation of each state consists of two legal systems: the system of domestic law and the system of international law. Both systems constitute a single whole – the legislation of the country, and in case of a conflict of legal norms, priority is given to the norms of international law. However, during the Soviet period, jurists from the former USSR traditionally did not recognize the norms of international law as sources of criminal law.

Contemporary legal doctrine provides that international treaties to which the Republic of Moldova is a party represent a source of criminal law in the field of preventing and combating crime, namely:

1) International treaties through which the Republic of Moldova has assumed the responsibility to criminalize and sanction certain dangerous acts that lead to the violation of common values and interests of society (such treaties are considered an indirect source of criminal law, because they assume the obligation of states to criminalize such acts through domestic criminal law);
2) International treaties on international legal assistance in criminal matters and international treaties on human rights, which are considered direct sources of criminal law because they become mandatory. Such a perception of the relationship between the two systems of law – international and domestic – has found its reflection in the constitutional legislation of most developed states (Lukașuk, 1998: 11-28).

In accordance with the provisions of Article 20 of Law No. 595 of 1999 on international treaties of the Republic of Moldova, ,,the provisions of international treaties which, according to their wording, are susceptible to application in legal relations without the adoption of special normative acts, have an enforceable character and are directly applicable in the legal system and the judicial system of the Republic of Moldova, and for the

implementation of the other provisions of the treaties, the corresponding normative acts are adopted" (Law No. 595 of 24.09.1999).

The norms of international law establish the need to implement the provisions of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries in the criminal legislation of the signatory state, including in the national legislation of the Republic of Moldova.

The Constitution of the Republic of Moldova, adopted on July 29, 1994, in Article 7 provides that this is the Supreme Law of the country and ,,no law or other legal act that contradicts the provisions of the Constitution has legal force"( Constitution of the Republic of Moldova No. 01 of 29.07.1994).

At the same time, Article 8 of the Constitution of the Republic of Moldova stipulates that ,,the Republic of Moldova undertakes to respect the UN Charter and the treaties to which it is a party, to base its relations with other states on the unanimously recognized principles and norms of international law", and ,,the entry into force of an international treaty containing provisions contrary to the Constitution shall be preceded by a revision of the Constitution". At the same time, the unanimously recognized principles and norms of international law and the international treaties to which the Republic of Moldova is a party constitute a component of its own legal system, and ,,if there are inconsistencies between the pacts and treaties regarding fundamental human rights to which the Republic of Moldova is a party and its internal laws, international regulations have priority" (Constitution of the Republic of Moldova No. 01 of 29.07.1994).

Therefore, the norms of international law provide for the criminalization of the activity of foreign soldiers in the national legislation of all states that have ratified the International Convention against the Recruitment, Use, Financing and Training of Mercenaries.

In order to criminalize mercenary activity, the local legislator established in the Criminal Code of the Republic of Moldova that ,,mercenary activity" constitutes an act that attacks social values protected by criminal law, in this regard respecting the obligation assumed at the international level to criminalize the act in domestic legislation and at the same time, taking into account the provisions of Article 1 of the Code which expressly stipulates that ,,The Criminal Code of the Republic of Moldova is the only Criminal Law of the Republic of Moldova" (Criminal Code of the Republic of Moldova No. 985 of 18.04.2002), in order for the person to be held criminally liable, it was absolutely necessary to introduce the act of ,,mercenary activity" into the Criminal Law of the Republic of Moldova.

The 1989 International Convention against the Recruitment, Use, Financing and Training of Mercenaries integrates the definition of the 1949 Geneva Conventions into its content and increases the scope of application, thus defining a mercenary as a person specifically recruited at home or abroad to take part in a concentrated act of violence aimed at: overthrowing a government or undermining the constitutional order of a state; undermining the territorial integrity of a state; taking part in such an act essentially for the purpose of obtaining a significant personal advantage and being induced to act by the promise

or payment of material remuneration; not being a national or resident of the state against which such an act is directed; not being sent by a state on an official mission; not being a member of the armed forces of the state on whose territory this act takes place.

From the above, we can see that the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, adopted by Resolution No. 44/34 of the UN General Assembly on 4 December 1989, has broadened the legal meaning of the notion of a foreign belligerent. This is also any person who, in any other situation: is specifically recruited locally or internationally to participate in acts of violence aimed at overthrowing a government or the constitutional order of a state, or undermining the territorial integrity of a state; is motivated to take part in such an act in particular by the desire for substantial personal gain and is stimulated by the promise or payment of material remuneration; is neither a citizen nor a resident of the state where the action is taking place; has not been sent by any state on an official mission; is not part of the armed forces of the state on whose territory the action is taking place (International Convention No. 44/34 of 04.12.1989).

First, not only the fact of recruitment of foreign soldiers abroad, but also at the local level, was taken into account. Secondly, in the presence of all other signs, as a foreign soldier, not only a person who participates in an interstate armed conflict, but also in an internal armed conflict, is recognized.

From the above-mentioned notions, we can deduce the following features of foreign soldiers, these features are also mentioned in the International Convention on Combating the Recruitment, Use, Financing and Training of Mercenaries (International Convention No. 44/34 of 04.12.1989), so as a foreign soldier is qualified a person: who is specially recruited in the country or abroad to fight in an armed conflict; who in fact, effectively and directly takes part in hostilities; who takes part in hostilities mainly with a view to obtaining personal advantage and who is effectively promised, by a party to the conflict or on its behalf, a remuneration higher than that promised or paid to combatants with an analogous rank and function in the armed forces of this party; who is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict; who is not a member of the armed forces of a party to the conflict; 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.

For the purposes of the Convention, direct participation in hostilities means direct participation in combat operations or any action intended to support one of the parties to an armed conflict to the detriment of another and which is likely to directly harm military operations, to harm the enemy's capabilities or to directly harm military operations, to harm the enemy's capabilities or to cause damage to protected persons and objects.

At the same time, in the Convention's view, essential for defining a person as a foreign soldier is participation or intention to participate in an armed conflict or in an act of concerted or organized violence carried out with the aim of removing a government or otherwise undermining the constitutional order or the territorial integrity of a State.

The request for examination and analysis of criminal legislation in the field of criminalizing the crime of a foreign soldier demonstrates its importance all the more pronounced, as in recent times there has been a significant increase in the number of Moldovan foreign soldiers who have fought or are fighting in other states. According to the statements of some researchers from the post-Soviet space, who have subjected this issue to

scientific investigations, through the prism of a legal and criminal analysis, world history demonstrates that one of the generating factors for the formation and spread of foreign military soldiers are political or economic crises. An eloquent example in this sense is brought to us by history by demonstrating the fall and subsequent dismemberment of such a world power as the Soviet Union, which also generated an increase in the number of former Soviet citizens who became foreign soldiers and were actively involved in local military conflicts in Transnistria, Abkhazia, South Ossetia, Ferghana, Karabakh, etc. (Stupishin, 2021: 23-24).

Referring to the national legal framework of the Republic of Moldova, we note that it has a considerable volume of academic information in this regard, thus offering investigators quite extensive possibilities for carrying out scientific and methodological tasks.

We consider it necessary to mention that, starting with 2002, when the new Criminal Code of the Republic of Moldova came into force, the offense provided for in Article 141, Mercenary activity, was not part of the list of the most incriminated until 2014, given the fact that for the native Moldovan society, these types of activities, as a criminal phenomenon, were inappropriate.

The analysis of both media resources and open informational mass media of judicial institutions demonstrates that until the outbreak of the armed conflict in eastern Ukraine, the Dombass region in 2014, the phenomenon of the activity of foreign soldiers was practically absent from the judicial practice of the Republic of Moldova.

Thus, it is obvious that the national specialty doctrine did not have consistent scientific research on this level. At the same time, we cannot ignore the fact that in the manual of scientific investigators A. Barbaneagra and V. Gamurari, as well as in the Commentary on the Criminal Code of the Republic of Moldova from 2009, this subject is analyzed in a complex way, as a component part of a wider group of crimes – namely, the field of war crimes (Barbaneagra and Gamurari, 2008: 56).

In order to elucidate the complex and socially negative nature of the investigated phenomenon, it is necessary to thoroughly examine it and identify its basic characteristic features.

In this regard, we also mention the work of researchers Brînza Sergiu and Stati Vitalie – Treatise on Criminal Law. Special Part, from 2015, where the theoretical basis is interconnected with the practical experiences of criminal investigation officers from internal affairs bodies, employees of the prosecutor's office and courts, who conducted investigations and findings in criminal cases initiated in accordance with the provisions of Article 141 of the Criminal Code of the Republic of Moldova (Brinza and Stati, 2015: 137).

According to the provisions of paragraph 1 of Article 141 of the Criminal Code of the Republic of Moldova, we understand that the participation of a mercenary in an armed conflict, in military actions or in other violent actions aimed at overthrowing or undermining the constitutional order or violating the territorial integrity of the state – constitutes a crime and is subject to criminal liability.

According to the provisions of paragraph 2 of Article 141 of the Criminal Code of the Republic of Moldova, we note that the hiring, training, financing, or other provision of a

mercenary, as well as their use in an armed conflict, in military actions or in other violent actions aimed at overthrowing or undermining the constitutional order or violating the territorial integrity of the state – also constitutes a crime and is subject to criminal liability (Criminal Code of the Republic of Moldova No. 985 of 18.04.2002).

The legal object of the crime provided for in paragraph 1 of Article 141 of the Criminal Code of the Republic of Moldova is the social relations regarding the non-admission of the participation of the mercenary in violent actions aimed at overthrowing or undermining the constitutional order or violating the territorial integrity of the state.

The objective side of the crime described in paragraph 1 of Article 141 of the Criminal Code of the Republic of Moldova constitutes two distinctive signs: the harmful act expressed by the action of participation in an armed conflict, in military actions or in other violent actions; the period of the commission of the crime, namely – during the conduct of the armed conflict, military actions or in the commission of other violent actions.

Thus, participation in an armed conflict, in military actions or in other violent actions, presupposes the activity organized or not, led or not by other persons, with a high degree of probability of the application of violent actions.

The respective participation can be carried out in various concrete ways, such as: attacking the headquarters of public authorities or communications centers or radio and television stations; attacking military units; occupying the headquarters of public authorities or the headquarters of parties or other legal organizations; opposing the bodies responsible for maintaining public order; disarming the law enforcement agencies; etc. (Brinza and Stati, 2015: 138).

With reference to the period of commission of the offense provided for in paragraph 1 of Article 141 of the Criminal Code of the Republic of Moldova, the legislator expressly establishes that the act may be committed only during armed conflict, military actions or the commission of other violent actions, regardless of whether such conflict or actions are international or domestic in nature.

Examining the offense provided for in paragraph 1 of Article 141 of the Criminal Code of the Republic of Moldova from a legal and doctrinal point of view, we find that it is a formal one, that is, it is considered consummated from the moment of direct involvement and participation in an armed conflict, military actions or other violent actions.

The subjective side of the analyzed offense is characterized by direct intent, and the motive, as a rule, consists of material interest.

The purpose of the crime provided for in paragraph 1 of Article 141 of the Criminal Code of the Republic of Moldova is expressed by the intention to overthrow or undermine the constitutional order or to violate the territorial integrity of the state.

The subject of the crime specified in paragraph 1 of Article 141 of the Criminal Code of the Republic of Moldova is a responsible natural person who at the time of the commission of the crime has reached the age of 16, having the special quality of a mercenary.

The special legal object of the crime established in paragraph 2 of Article 141 of the Criminal Code of the Republic of Moldova is the social relations focused on the inadmissibility of ensuring in any way the activity of mercenaries or their use in violent actions, aimed at overthrowing or undermining the constitutional order or violating the territorial integrity of a state.

In the presence of the method of financing mercenaries, the material or immaterial object of the crime specified in paragraph 2 of Article 141 of the Criminal Code of the Republic of Moldova is goods of any nature acquired through any means or financial services.

In the context of the crime provided for in paragraph 2 of Article 141 of the Criminal Code of the Republic of Moldova, the notion of goods refers not only to corporeal entities. „Goods" means financial means, any category of values, tangible or intangible, movable or immovable, tangible or intangible assets, as well as documents or other legal instruments in any form, including electronic or digital form, which attest to a title or right, including any share, interest, with respect to these values (Brinza and Stati, 2015: 138).

As for the notion of financial services, in the opinion of the authors, the following financial activities are taken into account: granting loans, borrowing funds, etc.

In the presence of the modality of other mercenary insurance, the material object of the crime may be weapons, ammunition, other destructive devices or means, harmful substances, etc.

By „other insurance of mercenaries", we mean: providing weapons, ammunition, other destructive devices or means, harmful or dangerous substances, other such means or instruments; hosting; facilitating entry into areas with limited access; making data about target objectives available; providing other support, in any form.

By „use of mercenaries in an armed conflict, in violent actions", we mean the effective involvement of the mercenary in participating in an armed conflict, in military actions or in violent actions.

Similar to the crime mentioned in paragraph 1 of Article 141 of the Criminal Code of the Republic of Moldova, the crime analyzed in paragraph 2 of Article 141 of the Criminal Code of the Republic of Moldova is a formal one. It is considered to be consummated from the moment of hiring, training, financing or other provision of mercenaries or their use in an armed conflict, in military actions or other violent actions.

The subjective side of the crimes specified in paragraph 2 of Article 141 of the Criminal Code of the Republic of Moldova is characterized by direct intent. The motives of the crime consist of: the perpetrator's desire to facilitate his criminal activity; the perpetrator's desire to transmit criminal experience to the mercenary accumulated.

The purpose of the crime is a mandatory secondary sign of the subjective side of the crime provided for in paragraph 2 of Article 141 of the Criminal Code of the Republic of Moldova. It is taken into account the purpose of overthrowing or undermining the constitutional order or violating the territorial integrity of the state.

The subject of the crime specified in paragraph 2 of Article 141 of the Criminal Code of the Republic of Moldova is a responsible natural person who at the time of the commission has reached the age of 16.

The legislative basis of most states of the contemporary world contains normative acts of both a general order and those of a special nature, with reference to the protection of the most precious values of society, some of which are the life and health of the person.

Here we note that among the illegal attacks on social values in the contemporary world, the crime of mercenary activity is also listed, which directly attacks the life and health of the person.

Thus, in the continuity of the scientific approach, we try to analyze the norms of comparative criminal law relating to the crime in question, in order to identify the legal and conceptual similarities and differences between the notion of mercenary and other doctrinal definitions provided by national and international criminal legislation.

In this context, we have identified such notions as: foreign combatant; terrorist fighter; member of an illegal paramilitary organization – used in international practice and doctrine in the field of preventing and combating mercenary activity and related crimes.

In order to make a clear delimitation between these notions, several approaches encountered in contemporary national legislation were analyzed, which offer us various interpretations and adopt different qualifications in this regard.

The substantial argument on which the respective analytical study is based consists in the fact that often in the process of legal qualification of one status or another, which is necessary to attribute to persons involved in the commission of extremist-terrorist or military crimes, gaps are attested in the legislative framework and, as result, major problems of legal classification of their criminal activity.

Thus, researching crimes similar to mercenary, we notice that several common elements are found in the category of terrorist crimes and, of course, military crimes.

Thus, in Chapter XIII of the Criminal Code of the Republic of Moldova, we find Article 282, which provides for criminal liability for organizing or leading a paramilitary formation not provided for by the legislation of the Republic of Moldova, as well as participation in such a formation.

Here we identify some parallels with the establishment of so-called private military companies, which are non-state organizations and represent a specific form of mercenaryism, possessing powers provided by the state to solve various tasks related to the military activity of the state and whose activity is also prohibited by the legislation of several states.

The common features of mercenary and terrorist activity are not accidentally highlighted by several researchers.

Terrorism and crimes related to it are a multifaceted problem that requires multidimensional solutions. International experience shows that respect for and protection of human rights and the fundamental principle of the rule of law are not an obstacle, but a *sine qua non* condition for identifying effective responses and reactions against threats to national, regional and international security.

The threats generated by the activity of the so-called „*foreign terrorist fighters*" *(FTF)* and the countermeasures necessary to combat these threats are no exception. Human rights and the rule of law provide a solid basis for effective action against potential threats and challenges from tendencies to engage in terrorist activities.

At the same time, the fighter, the foreign terrorist fighter as a subject of the anti-terrorist level is only one of the categories of extras who carry out terrorist activity. His actions are strictly limited to participating in battles on the side of terrorist organizations against the constitutional authority of one state or another. An example in this regard can be the terrorist fighters within the international terrorist organization DAESH, who have widely

fought to support the ideology of this organization on the territory of the Syrian Arab Republic and the Republic of Iraq.

However, these persons cannot be equated from a legal point of view with mercenaries, given that the reasons for their involvement and participation in battles are not identical.

The concept of *,,foreign terrorist fighters" (FTF)* is not a new definition. Foreign fighters have taken part in about 100 civil wars over the past 250 years (Malet, 2015: 64).

The term *,,foreign terrorist fighters" (FTF)* was first officially used to refer to militants who traveled outside the conflict zone to fight on the side of the Al-Qaeda terrorist organization in Afghanistan.

This term was later applied in the context of the terrorist insurgent movements that emerged in Iraq in 2003. In the absence of a legal definition, commentators and media representatives used this notion in various ways. Finally, a definition widely accepted by international academia was proposed by the International Academy of International Humanitarian Law and Human Rights in Geneva, as ,,a foreign combatant is a person who leaves his or her country of origin or habitual residence to join a non-state armed group in an armed conflict abroad and who is motivated primarily by ideology, religion and/or kinship" (Geneva Academy of International Humanitarian Law and Human Ringts).

In accordance with the provisions of UN Resolution No. 2178 of 2014, adopted by the Security Council at its 7272nd meeting on 24 September 2014, foreign terrorist fighters – are persons who travel to a state other than their state of residence or nationality for the purpose of committing, planning, preparing for, or participating in terrorist acts, as well as providing or obtaining terrorist training, including in connection with the conduct of an armed conflict (Resolution nr.2178 on 2014).

Turning to the Dictionary of Basic Concepts in the Field of Preventing and Combating Terrorist Activity, we can see that the foreign fighter here is described as a person attracted by a terrorist organization for the purpose of carrying out terrorist actions. This person carries out his activity on an ideological basis, material remuneration or on the basis of a dependency.

Comparing the notion of a foreign terrorist fighter with that of a mercenary, we find that they share some identical elements, such as:

1. Participation in combat in an armed conflict;
2. Neither one nor the other is a member of the armed forces of a party to the conflict;
3. They have not been sent by a state on an official mission as a member of the armed forces of that state;
4. They are neither nationals of a party to the conflict nor residents of the territory controlled by a party to the conflict;

At the same time, there are also some differences, such as: the mercenary takes part in hostilities mainly in order to obtain a personal advantage, and persons in the FTF category mostly join terrorist groups on an ideological or religious basis. At the same time, neither material remuneration nor other circumstances are excluded, which forced him to take part in

hostilities in support of terrorist groups, for example: on the basis of any kind of dependence, blackmail, etc.

As we can see, the risks generated by both compared categories are largely similar and pose significant dangers to international security. With the beginning of the ,,Arab Spring", mercenaries from all over the world began to gather in the region.

It is well known that the ranks of radical Islamist structures in Syria and Iraq were formed including an impressive number of foreign citizens, many of whom support terrorist groups not for ideological reasons.

The influx of foreign fighters into Syria, most of whom, according to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, adopted by UN General Assembly Resolution No. 44/34 of December 4, 1989, can be classified as mercenaries, has become one of the most serious challenges to the statehood of Syria.

According to the head of the Center for Scientific and Analytical Information of the Institute of Oriental Studies of the Russian Academy of Sciences, Doctor of Political Sciences, Nikolai Plotnikov, the participation of foreign fighters in the civil war in Syria has significantly increased the level of cruelty and duration of combat actions (Glossary of Key Terms in Counter-Terrorism).

According to eyewitness accounts, the terrorist militants who repeatedly demonstrated excessive brutality and cruelty were in most cases citizens of foreign states. The presence of these individuals in the ranks of homegrown terrorists was very useful for the leaders of the terrorist organization DAESH, given that the newly arrived fighters were trained to do the ,,dirtiest work", starting with the torture of captured enemies and ending with their physical execution.

Considering the danger posed by the activity of the FTF, the UN Security Council periodically recalls its decision in resolution 2178 of 2014, according to which the legislation of all Member States must qualify as serious crimes the activities expressed in the travel, recruitment and financing of foreign terrorist fighters, and urges Member States to fully implement their obligations in this regard, including ensuring that their domestic laws and regulations establish sufficiently serious crimes to provide for the capacity for criminal prosecution and appropriate penalties that adequately reflect the gravity of the crime, and reiterates its call on Member States to cooperate and support each other's efforts to combat violent extremism that fosters the development of terrorist aspirations (Plotnikov: 2).

The definition adopted by the Security Council contains several elements that should be highlighted. First, the Security Council definition applies only to foreign fighters who travel for the purpose of terrorist activity. However, not all foreign fighters travel specifically for terrorist purposes. Thus, although these fighters may in some cases be charged in their home country with a specific crime for participating in an armed conflict in another country, they are not necessarily terrorists and therefore cannot be treated as such.

Secondly, the Security Council definition applies regardless of whether or not they participate in an armed conflict. However, the International Committee of the Red Cross warns of the ,,potentially negative effects" of combining the terms ,,armed conflict" with ,,terrorist activities", which leads to the erroneous classification of all non-state armed groups as terrorists (International Committee of the Red Cross).

Based on the latter, we find that foreign terrorist fighters, however, differ from mercenaries, who fight abroad on behalf of governments or privately funded entities (Lister, 2015: 46) and are ,,motivated to take part in hostilities essentially by the desire for private gain" (Additional Protocol No. 1 of 10.06.1977).

However, in situations where financial, political and ideological interests overlap significantly, these individuals can sometimes be defined as ,,*foreign terrorist fighters*".

It is known that the ranks of radical Islamist structures in Syria and Iraq were formed by a significant number of foreign citizens, many of whom support terrorist groups for both ideological and other reasons.

Since June 2014, the number of militants arriving from the EU has practically doubled. Almost half of them were citizens of France, Great Britain, Belgium and Germany. A large number of mercenaries came from the former Yugoslavia – Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro.

The Law of the Republic of Moldova No. 120 of 21.09.2017 on preventing and combating terrorism defines the notion of a terrorist as follows: a terrorist is a person involved in any form in a terrorist activity (The RIA Radiosputnik news portal estimated the number of foreign fighters in Syria and Iraq).

The national legislator did not in vain provide for ,,involvement in any form". This provision shows that not only the terrorist attack itself is attributed to terrorist crimes. The Criminal Code of the Republic of Moldova provides for 18 terrorist crimes, respectively, the commission of any of them places the perpetrator in the legal field as a terrorist.

Thus, according to the Law on the Prevention and Combating of Terrorism, a terrorist crime is one of the crimes provided for in Article $134^{11}$ of the Criminal Code of the Republic of Moldova. International doctrine defines a terrorist crime as a prejudicial act provided for by national legislation and international conventions and treaties, carried out for terrorist purposes.

In this context, the foreign terrorist fighter is just one of the multiple manifestations of a terrorist. The same law provides that terrorism is a phenomenon with a high degree of social danger, characterized by a radical ideology and a practice of influencing through violence the decision-making of public authorities and institutions or international organizations, accompanied by intimidation of the population and/or other violent actions.

In this way, we find that terrorism is a complex socio-political and criminal phenomenon, conditioned by the internal and external contradictions of social development in different countries (Law No. 120 of 21.09.2017 on preventing and combating terrorism).

These conditions also form the personality of the terrorist, which is different each time, depending on the environment in which the future terrorist was educated and raised. Thus, the personality of the terrorist is composed of a set of personal, professional, age, psychological and other qualities that characterize a person involved in one form or another in terrorist activities. Knowledge of these qualities allows employees of special services and law enforcement agencies to shape his behavior, preventing him from committing terrorist acts, to apply measures to detect and neutralize him, for example: to divide and distinguish between ,,terrorist-leader", ,,terrorist-actor", ,,terrorist-suicide", ,,terrorist-hero", etc.

It is no coincidence that terrorism is considered one of the global problems of our time. A global problem means a world problem that is characteristic of many countries of the world. Terrorism is on an equal footing with other global problems, such as: drug addiction, poverty, AIDS, global warming and many others. These problems threaten the life and well-being of all mankind. Terrorism being one of them.

**Conclusions**

Following the analysis, we can draw conclusions, such as that the phenomenon of mercenarism is recognized as a specific crime in several countries. However, in the criminal doctrines of the respective states we identify some differences both in the issue of defining the mercenary, and in the legal regulation of the criminal component of mercenaryism. A number of problems are also found in explaining the legal object of this crime.

Persons are held criminally liable according to the existing legislation in several states, primarily for their participation as mercenaries in armed conflict, in military actions or for recruiting mercenaries. On the other hand, the criminalization of such acts as training, financing mercenaries and their use in armed conflicts or hostilities is not often attested. The plausible explanation probably lies in the difficulty of proving the purpose pursued by mercenaries by participating in hostilities. In many cases, this offense legally falls within a broader formulation of war crimes, being mentioned in this sense by attacking the constitutional order or territorial integrity of a state. In real situations, however, practice shows that in order to evade criminal liability, mercenaries often declare that they participated in combat actions not for financial purposes, but are guided by some ,,noble" principles, whether ideological of a political or religious nature, or ,,defense of those suppressed by illegally elected governments". In the absence of evidence to the contrary, criminal liability for mercenary activity becomes impossible due to the absence of purpose, as it is usually formulated in the criminal legislation of several states.

Finally, we can conclude that mercenary activity has a number of negative consequences, namely: violation of fundamental human and citizen rights and freedoms, violation of peoples' rights to self-determination, damage to the territorial integrity of states, damage to their political independence and sovereign equality, undermining the stability of constitutionally formed governments in developing states.

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