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MECHANISMS OF LAW ENFORCEMENT INSTITUTIONS IN COMBATING AND PREVENTING THREATS TO STATE SECURITY

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ABSTRACT

State security is an essential condition for the existence, stability and development of a democratic society. In a global context marked by terrorism, organised crime, corruption, cyber attacks and other transnational risks, law enforcement institutions play a fundamental role in preventing and combating threats to national security. Law enforcement institutions include law enforcement bodies, such as the police, the prosecutor's office, the courts, intelligence services and other structures specialised in the field of security. They act on the basis of the Constitution and national legislation, with the mission of protecting the constitutional order, the rights and freedoms of citizens, as well as the territorial integrity of the state. Inter-institutional and international cooperation is also a key element. Since many threats are cross-border in nature, states collaborate through information exchange and joint actions. International organisations such as NATO or the European Union support member states in strengthening security mechanisms and in coordinating crime prevention and defence policies. Last but not least, respect for human rights and the principles of the rule of law is an essential mechanism in the activity of institutions. Combating threats must not violate fundamental freedoms, but must be carried out within the limits of the law, ensuring a balance between security and democracy. The mechanisms of law-enforcement institutions in combating and preventing threats to state security are complex and interconnected. Through prevention, intervention, cooperation and compliance with the legal framework, these institutions contribute to protecting the stability of the state and maintaining a climate of safety for citizens.

Key words: antisocial act, international cooperation, national security, prevention and combating, human rights, law enforcement agencies, legal framework.

MECANISMELE INSTITUȚIILOR DE DREPT ÎN COMBATerea ȘI PREVENIREA AMENINȚĂRIILOR LA SECURITATEA STATULUI

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REZUMAT

Securitatea statului reprezintă o condiție esențială pentru existența, stabilitatea și dezvoltarea unei societăți democratice. Într-un context global marcat de terorism, criminalitate organizată, corupție, atacuri cibernetice și alte riscuri transnaționale, instituțiile de drept joacă un rol fundamental în prevenirea și combaterea amenințărilor la adresa securității naționale. Instituțiile de drept includ organele de aplicare a legii, precum poliția, procuratura, instanțele judecătorești, serviciile de informații și alte structuri specializate în domeniul securității. Acestea acționează în baza Constituției și a legislației naționale, având misiunea de a proteja ordinea constituțională, drepturile și libertățile cetățenilor, precum și integritatea teritorială a statului. Cooperarea interinstituțională și internațională constituie, de asemenea, un element cheie. Întrucât multe amenințări au caracter transfrontalier, statele colaborează prin schimb de informații și acțiuni comune. Organizații internaționale precum NATO sau Uniunea Europeană sprijină statele membre în consolidarea mecanismelor de securitate și în coordonarea politicilor de apărare și prevenire a criminalității. Nu în ultimul rând, respectarea drepturilor omului și a principiilor statului de drept reprezintă un mecanism esențial în activitatea instituțiilor. Combaterea amenințărilor nu trebuie să încalce libertățile fundamentale, ci să se desfășoare în limitele legii, asigurând un echilibru între securitate și democrație. Mecanismele instituțiilor de drept în combaterea și prevenirea amenințărilor la securitatea statului sunt complexe și interconectate. Prin prevenire, intervenție, cooperare și respectarea cadrului legal, aceste instituții contribuie la protejarea stabilității statului și la menținerea unui climat de siguranță pentru cetățeni.

Cuvinte-cheie: faptă antisocială, cooperare internațională, securitatea națională, prevenire și combatere, drepturile omului, organele de aplicare a legii, cadrul legal.

Introduction. The analysis of the challenges and practical limitations in investigating crime at the contemporary stage in the European space involves a complex examination of the difficulties faced by judicial authorities and law enforcement agencies in the context of current social, technological and geopolitical transformations. Currently, the accelerated dynamics of the criminal phenomenon, the diversification of forms of crime and the expansion of their cross-border nature require the continuous adaptation of prevention and investigation mechanisms.

One of the main obstacles is the rapid development of digital technologies, which facilitates the emergence of new types of crimes, such as cybercrime, online fraud, money laundering through virtual platforms or the use of cryptocurrencies for illicit purposes. These phenomena require advanced technical skills, high-performance infrastructure and efficient international cooperation, aspects that are not always uniformly developed at the level of European states.

Also, legislative and procedural differences between national legal systems can hinder judicial cooperation and the rapid exchange of information. Although there are common mechanisms and instruments at European level, their practical application may be affected by bureaucratic barriers, lack of resources or divergent interpretations of legal norms.

Basic content. It is well known that the practical challenges and limitations in investigating and countering crime have gone far beyond concealing the method of committing a crime and, in fact, has become a counteraction to the activity of law enforcement agencies as a whole and, in this regard, has acquired the character of an extremely negative and dangerous socio-legal phenomenon [4, p.94].

It must be recognized that the penetration of the criminal phenomenon into all spheres of public life is directly related not only to the insufficiently qualitative activity of criminal prosecution agencies, often the considerable efforts made by them not achieving the desired results.

The organizers and leaders of organized criminal groups involved in mercenary activity have at their disposal all possible means and forces that can be used

both in the course of committing crimes by their employees and to counter them in the event of the initiation of investigations by state law enforcement agencies. These methods and means can be both legal and illicit.

We cannot say that law enforcement agencies do not have adequate measures to counter the manifestations of criminal activity, including in the field of mercenary activity. The problem lies elsewhere. Effective counteraction to criminal activity requires a comprehensive government approach, which would consist in the adoption of a well-developed legal and regulatory framework, the implementation of which should be carried out in close cooperation with all law enforcement institutions.

At present, practical provocation or limitation can be considered as a set of deliberate illegal and other actions aimed at obstructing the investigation or prosecution in the process of identifying and combating crimes. Such actions are carried out by criminals and/or persons associated with them.

Analyzing the judicial and investigative practice in the field of mercenary activity, we find that the specificity of limitations and provocations in this area lies, first of all, in the procedure for qualifying the crime as such.

It should be reiterated that mercenary activity is officially prohibited in most countries of the world. Generalizing the normative basis that ensures international legal regulation of mercenaries, especially those within private military companies, we find that this is reflected in the following acts:

✓ Article 47 of Additional Protocol No. 1 of 06/08/1977 to the Geneva Conventions of 08.12.1949 „Relating to the Protection of Victims of International Armed Conflicts”;

✓ The US Arms Export Control Act. According to it, the US State Department licenses the activities of their private military companies abroad, as well as monitors the execution of the contract;

✓ The South African Foreign Military Support Act. According to it, the activities of private military companies are licensed by the National Committee responsible for controlling the arms circuit in the country;

✓ The 1974 UN Resolution on the „Definition of Aggression”. This resolution qualifies the use of mercenaries and private military companies against other countries as an international crime;

✓ UN Resolution of 14.12.1979, according to which mercenaryism is a crime against peace and humanity and is equated with genocide, homicide and other particularly serious crimes;

✓ UN Convention of 1989 „On the Prohibition of the Recruitment, Use, Financing and Training of Mercenaries”, adopted on 20.10.2001. This convention provided a more explicit interpretation of the definition of „mercenary”, which reflected the material interest of mercenaries;

✓ Legal initiatives „Green Paper” from Great Britain (2002) and Switzerland (2006). These initiatives aim to increase control over the activities of private military companies. The essence of the initiatives was the creation of an international body to control the activities of PMCs;

✓ The International Code of Conduct for Private Security Companies of 2010. This document was the beginning of the legalization of the institute of mercenary work, based on the international legal framework on the use of mercenaries and human rights legislation;

✓ The Montreux Document of 2008 [3]. Contains recommendations for regulating the activities of employees of private military companies in areas of military conflict.

Summarizing the above, we can see that currently large states are pursuing the task of fully controlling the services of Private Military Companies (PMCs) on the world market by creating a single (international) licensing body, through which to monitor such companies.

States need clear regulation of the activities of private military companies within them, and international organizations must develop the regulation of PMCs during the conduct of various international conflicts and other foreign policy activities of states, including during the organization of peacekeeping missions and peace enforcement operations. As we have mentioned earlier, according to the provisions of Article 47 of Additional Protocol No. 1 to the Geneva Convention of August 12, 1949, in order for a person to be considered a mercenary, six mandatory criteria must be met simultaneously:

- a person is specifically recruited domestically or abroad to participate in an armed conflict;
- is directly involved in hostilities;
- participates in hostilities for the purpose of obtaining personal benefit and actually receives remuneration higher than that promised or paid to combatants holding a similar position and rank in the armed forces of the party involved in the conflict;
- is not a national of a party involved in the conflict or a resident of territory controlled by such a party;
- is not a member of the armed forces of a party involved in the conflict;
- is not sent on an official mission by a state, except a party involved in the conflict, as a member of the armed forces of that state [1].

Referring to this formulation of international law and approaching it from the perspective of practical challenges and limitations in investigating mercenarism, an impressive number of people cannot be qualified as mercenaries, despite the fact of direct participation in combat theaters, if they do not meet at least one of the characteristics listed above, although their de facto activity is one of mercenary.

And if we refer to the actions of intentional obstruction by criminals in conducting investigations of their criminal actions, then the results of the work of the working group investigating the activity of mercenaries are reduced even more.

Given that the investigator's tasks do not include the need to prove the intentional creation of limitations and obstacles by the figures in special and criminal cases, an activity aimed at obstructing law enforcement agencies in detecting, discovering and investigating crimes, the issue of investigation and legal classification becomes even more complicated.

As Russian scholar Vladimir Lavrov notes in this regard, „opposition to criminal prosecution can make it difficult and sometimes impossible to prove any of the circumstances included in the evidence listed in the Code of Criminal Procedure. The very fact of concealment and other forms of obstruction should be considered as one of the circumstances that must be proven, since the subjects of opposition can have a negative impact on the establishment of any circumstances of the crime” [2, p.26].

Currently, it must be recognized that obstruction of the criminal prosecution process as a phenomenon has become widespread and threatening, covering all levels of law enforcement activity, which hinders the implementation of the principles of criminal procedure and criminal law and has formed in a significant number of citizens the belief that law enforcement agencies are failing in the fight against crime and in the protection of their legitimate rights and interests.

The method of concealing a crime is a system of deliberate actions of the perpetrator (and other persons), causally connected with the preparation and execution of the act, aimed at preventing the detection, investigation and prevention of the crime.

Depending on its goals, the subject of counter-action chooses the best method of concealment. Thus, the offender, his relatives and close associates can conceal the crime on their own or use for this purpose physical or psychological influence on other persons. The goal of the offender at this stage is to prevent the detection of signs of the crime, as well as to suppress any possibility of transmitting information to law enforcement agencies.

The analysis of the content of Article 141 „Mercenary activity” of the Criminal Code of the Republic of Moldova shows us the following.

By „mercenary activity” the national criminal law understands: Participation of the 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.

(1) Hiring, training, financing or other provision of mercenaries, 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.

Thus, the procedure for investigating and demonstrating the quality of a person as a mercenary in national legislation is not so complicated, once the person is assigned the status of a mercenary. After the extra is classified as a mercenary under all international norms, the investigative and prosecution body only has to prove his involvement in illegal activities provided for in art. 141 of the Criminal Code.

Challenges in Investigating Mercenary Activity.

Investigating mercenary activity presents a number of unique and complex challenges for law enforcement and intelligence agencies. These challenges require innovative and tailored approaches within the framework of special investigative work. Key challenges include:

✓ **Transnational nature of the activity:**

- mercenary operations often cross multiple jurisdictions, complicating the investigation and prosecution process;
- require complex international coordination and information sharing between various agencies.

✓ **Hidden and false identities:**

- mercenaries frequently use multiple or false identities, making it difficult to identify and track them;
- require advanced identity verification techniques and biometric data analysis.

✓ **Fluid organizational structures:**

- mercenary groups tend to have flexible and rapidly changing structures, making it difficult to map their networks;
- implies the need for constant updating of information and rapid adaptation of investigative strategies.

✓ **Political interference:**

- mercenary activity is often linked to geopolitical interests, which can lead to political pressure on investigations;
- requires maintaining operational independence and investigative integrity in the face of external pressures.

✓ **Substantial financial resources:**

- many mercenary operations benefit from significant funding, allowing them to use advanced technologies and corrupt officials of official state structures;

- implies the need for sophisticated financial investigations and cooperation with financial institutions.

✓ **Advanced communication and encryption technologies:**

- the use of encrypted communication systems and the darknet by mercenaries creates considerable difficulties in intercepting and monitoring illegal activities;

- requires the continuous development of technical interception and decryption capabilities.

✓ **Infiltration into legitimate structures:**

- mercenaries and their organizations may operate

under the cover of legitimate private military companies or NGOs;

- involves the need for complex investigations to distinguish between legal and illegal activities.

✓ **Threats to witnesses and investigators:**

- significant security risks for those involved in investigating and prosecuting mercenaries;
- requires robust witness protection measures and operational security.

✓ **Lack of cooperation from some states:**

- some countries may be reluctant to cooperate in investigations, especially if the mercenaries serve their interests;
- implies the need for diplomatic approaches and international pressure to ensure cooperation.

✓ **Rapid evolution of tactics and techniques:**

- mercenaries constantly adapt their methods, making it difficult to keep investigative techniques/methods up to date;
- requires a flexible and innovative approach in developing tactical investigative methods.

✓ **Ethical and legal issues in the use of investigative techniques:**

- balancing the need for information with respect for human rights and legal norms;
- involves the development of clear control protocols over investigative operations.

✓ **The complexity of digital evidence:**

- the increasing use of cyberspace by mercenaries adds new dimensions to investigations.
- requires specialized expertise in the field of digital forensics and *big data* analysis.

These challenges highlight the need for a multidisciplinary and adaptable approach to investigating mercenary activity. The development of effective tactical approaches must take these obstacles into account and find innovative solutions to overcome them.

It is important to note that identifying and investigating mercenary activity can be difficult, as mercenaries often try to hide their identity and operate clandestinely. However, law enforcement authorities and organizations are making efforts to combat this phenomenon and bring those involved in illegal mercenary activities to justice.

The decrease in the number of apprehensions and convictions of mercenaries over the past two years is also due to the fact that mercenaries are being cautious about how to return to the country, given that the armed conflict in Ukraine has degenerated into a full-scale war.

Thus, it is attested that in recent times fewer and fewer mercenaries are opting to return to the Republic of Moldova, for fear of being detained and convicted by national courts. Knowing that the relevant authorities of the Republic of Moldova are actively carrying out special investigative measures in order to bring mercenaries to criminal liability, others enter the country clandestinely, using the Transnistrian territory, not controlled by the official Moldovan authorities.

In addition to all these particular factors, we can even challenge the prevailing opinion in the international

scientific community, according to which there is a strong international norm prohibiting mercenary activity. Instead, we argue that the international restrictions imposed on mercenaries are an indirect expression of a more fundamental and widespread international norm against mercenarism.

Our findings reveal the generalized indifference of decision-makers towards mercenaries during military conflicts at the regional or internal level in some states. We conclude that the anti-mercenary norm based on moral objections is not as strong as its proponents suggest and is often threatened when national interests dictate decision-making at the political level.

Psycho-social profile of the mercenary. Examining the main categories of people subject to the influence of ideological propaganda and potential recruitment, especially by recruiters of the unconstitutional entities „L/DNR” in eastern Ukraine, the profile of a mercenary includes the following characteristics:

- the age of vulnerable citizens in this plan varies from 18 to 50 years;
- as a rule, they are shaved bald, look older in appearance, have scars on their face, body, etc.;
- with military experience;
- with Russophile ideological orientation (based on the manifested antipathy towards states that promote the values of the European Union);
- express a pronounced (and, as a rule, unrealized) desire to join a significant group or a „noble national cause”;
- with secondary or incomplete secondary education;
- as a rule, they are financially unstable;
- tend to obtain new connections, opportunities, earnings, etc.;
- post photos from war theaters on social networks;
- are dependent people (raised in conditions of excessive care in the family);
- from asocial (disorganized) or socially vulnerable families;
- with psychological trauma (some in the aforementioned category have been diagnosed with mental health problems, prone to suicidal behavior);
- often socially marginalized;
- have low self-esteem with aggressive tendencies to defend their own personality;
- involved in committing violent crimes;
- some are drug addicts.

Currently, in forensic science, the concept of „criminal personality” is understood as a „system of biological, social and psychological characteristics of a person, information about which is reflected in the environment and can have a significant impact on the organization of search and investigation activities for the discovery and investigation of crimes” [5].

By „biological characteristics of the personality of the criminal-mercenary” is meant the bodily organization – external appearance, peculiarities of the physical

constitution, state of health. The psychological characteristics of the personality can be attributed to the peculiarities of the worldview, ideology, character, temperament, orientation and other features.

In order to conduct an effective analysis of the processes related to the involvement of people in mercenary activities, the author has developed a set of risk indicators, which is necessary to be taken into account in the investigations.

Set of risk indicators specific to the activity of mercenaries.

1. Financial Domain.

- Repeated, fragmented international transfers below the reporting threshold (e.g. <10,000 EUR).
- Use of bank accounts registered with third parties („money mules”).
- Frequent payments to private security companies registered in opaque jurisdictions.
- Purchase of military/logistical equipment (bulletproof vest, drones, communication equipment) with cash.
- Use of cryptocurrencies for transportation and accommodation services in conflict zones.
- Regular remittances to unstable regions or with the presence of armed groups.

2. Travel & Mobility Domain

- Round-trip tickets with short stay (<72h).
- Flights with triangulated routes through high-risk countries (to hide the final destination).
- Purchase of „last minute” airline tickets with cash.
- Frequent travel to conflict zones without economic or family justification.
- Use of multiple passports / forged documents.
- Frequent changes of destination in PNR / APIS without justification.

3. Social & Logistics Domain

- Participation in private military training camps, under the guise of „security courses”.
- Online recruitment on extremist forums or obscure social networks.
- Encrypted communications on „closed group” platforms (e.g. Telegram, Signal, etc.).
- Unjustified possession of dual-use equipment (military optics, drones).
- Frequent contacts with known arms trafficking intermediaries.
- Rental of off-road vehicles or isolated locations without clear commercial activity

4. Behavioral & Relational Domain

- Association with individuals already investigated for mercenary activity or terrorism.
- Sudden changes in financial situation without explanation (increased income from external sources).
- Public statements of support for paramilitary groups.
- Deliberate avoidance of interaction with

authorities (non-registration of residence, refusal of KYC).

- Attempts to recruit other citizens for „missions abroad”.

Conclusion. The analysis of the challenges and limitations in investigating crime in contemporary Europe highlights the complexity of a field in continuous transformation. The evolution of crime types, influenced by globalization, digitalization and migration, as well as institutional and legislative changes, create a context in which judicial and law enforcement authorities have to respond to increasingly diverse and sophisticated threats. Practical limitations, such as the shortage of specialized resources, the difficulties in quickly adapting the legal framework to new forms of crime and barriers to cross-border cooperation, restrict the effectiveness of traditional preventive and repressive measures. This

situation highlights the need to adopt innovative approaches that combine advanced technologies, data analysis and artificial intelligence with enhanced international collaboration, designed to overcome jurisdictional boundaries and facilitate the exchange of information and good practices. In this sense, the effectiveness of combating crime can no longer be conceived only through the lens of conventional measures, but requires an integrated, strategic and adaptive vision, capable of responding quickly to the dynamics of an increasingly complex, interdependent and globalized criminal environment. Thus, success in investigating contemporary European crime depends both on the continuous modernization of legal and technological instruments, and on the consolidation of a transnational cooperation network, capable of ensuring a coherent and efficient response to emerging threats.

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