

ARMED ATTACKS WITH THE PARTICIPATION OF MERCENARIES – DANGEROUS ACTION TO DESTROY THE ENVIRONMENT

*Igor SOROCEANU**

Abstract

At this stage, military conflicts are no longer defined as covert actions. These have begun to spread around the world. Sometimes the main political actors, in order to get some advantages and interests – resort directly to armed attacks against opponents.

Internationally analyzed practice shows that third parties are often involved in such armed attacks, ie those who are not nationals of any of the states involved in armed conflict. Such persons, in international law, are called mercenaries.

The activity of mercenaries is ruthless. Mercenaries are people who strike directly or indirectly with firearms, sometimes without regard to the rules of international law, the fundamental rights and freedoms of citizens.

Most often, armed attacks involving mercenaries are particularly dangerous, directly affecting the lives and health of citizens. As a result of the attacks, the mercenaries leave behind only chaos and massive destruction. These destructions are diverse: architectural, patrimonial, damages to individuals, destruction of roads, restriction of access roads, and others.

Thus, we aim to analyze in detail and multispectively this topic, in particular, how the armed attacks of mercenaries negatively harm the environment.

Keywords: *mercenary, armed attack, dangerous activity, environment, serious consequences, international legal liability*

JEL Classification: [K33, K 14]

1. Introduction

The environment is our life, it is the place where we are born, live and achieve great things, so it must always be protected and protected. However, the environment is sometimes subject to change. They occur with regret due to weather conditions, explosions, volcanic eruptions, landslides, armed conflicts, and others.

These factors often have a negative effect on the environment. And for the restoration of the order of the society and of the good governance – being necessary a long period of time.

This process is also in the situation of armed conflicts. The disasters of time and their aftermath have very serious consequences for the environment,

* PhD. student, Academy “Ștefan cel Mare” of the Ministry of Internal Affairs, Republic of Moldova.

sometimes irreparable. The participation of mercenaries in armed attacks is an obvious violation of the rules of international law. Their place is far from being on the battlefield, which is why these illegal actions are liable to legal liability under the law of the state to which the mercenary belongs, or of the state against which he is fighting.

2. The degree of investigation of the problem at present, the purpose of the research.

At present, the importance and purpose of the elaboration of this scientific approach, appears from the author's intention to reveal in the foreground the external appearance of the mercenaries on the battlefield. At the same time, there is an urgent need for a comprehensive analysis of the essence and role of mercenaries in armed attacks, as well as the consequences they generate in the environment.

3. Materials used and methods applied.

In the process of elaborating the scientific article we were guided by several and various methods of scientific research that made possible the proper investigation of the subject, among which we can list: method of analysis, method of synthesis, method of deduction, systemic method, historical method, and comparative method.

The theoretical-legal basis of the scientific approach includes the defining material such as the international and domestic legal framework, various online reference addresses and some studies of the literature – which directly or indirectly address the essence and content of the subject under research.

4. The results obtained based on the scientific analyzes performed.

The environment, specified as the environment, the environment or even the natural environment, is a notion that refers to all the natural conditions on Earth or in a region of it, in which beings or things evolve. These conditions include the atmosphere, temperature, light, relief, water, soil, etc., as well as other living things and things. The environment plays a very important role in the process of the evolution of living beings, which, in turn, are a factor in the transformation of the environment (Joja & Macrea, 1962).

At the same time, by the concept of environment we mean, „the totality of natural factors and those created by human (anthropic) activities that determine in a close interaction the conditions for human existence and the development of society” (Environment).

This term is also defined by other researchers, in another position, the author Mihai-Bogdan Ionescu-Lupeanu, mentions that:

- 1) the environment is defined as the totality of natural and man-made factors, which are in close interaction and influence the ecological balance, as well as the living conditions for man;

- 2) the environment is the set of conditions and natural elements of the Earth: air, water, soil, subsoil, characteristic aspects of the landscape, all atmospheric layers, all organic and inorganic matter, as well as living things, natural systems interacting, including the elements listed above, including material and spiritual values, quality of life and conditions that may influence human well – being and health;
- 3) the environment represents the totality of physical, chemical, meteorological factors in a given place, with which an organism comes in contact (Ionescu-Lupeanu, 2019).

The variety of notions used for its title, because the content of the right depends, from a substantial point of view, also on the definition given to the environment, which reflects different dimensions of this right. From the diversity of notions, such as the right to a healthy environment, the right to a healthy and ecologically balanced environment, the right to a quality environment, the right to environmental conservation or the right to a protected environment, two elements or dimensions of namely:

- a) the natural dimension, which expresses the imperative to guarantee a natural environment that favors the quality of life in general, having rigorous socio-economic implications and regards man, especially, as a component of the natural system and its protection by maintaining ecological balance;
- b) the human dimension, which concerns, first of all, a healthy, unpolluted environment, which does not create a state of danger for human health, life and development (physical and intellectual), to ensure the assertion of his creative personality, positioning, thus, in the central plane man, the well-being and prosperity of his material and spiritual condition, the defense of the integrity of the human being (Crasnobaev, 2014. p. 155).

On 10 June, 1977, the Protocol No. 1 to the Geneva Conventions of 12 August 1949 on the Protection of Victims of International Armed Conflicts entered into force as a legal force.

Within the limits of this international act, the High Contracting Parties have expressly provided for the terminological definition of the concept of *mercenary*.

Thus, the term *mercenary* means any person:

- a) who is specially recruited in the country or abroad to fight in an armed conflict;
- b) who, in fact, takes part in hostilities;
- c) who takes part in hostilities in particular in order to obtain a personal advantage and who is actually promised, by or in the name of the party

to the conflict, a higher remuneration than that promised or paid to combatants having a similar rank and function in the forces arms of this party;

- d) who is neither a national of a party to the conflict nor a resident of the territory controlled by a party to the conflict;
- e) who is not a member of the armed forces of a party to the conflict;
- f) who has not been sent by a State other than a Party to the conflict on an official mission as a member of the armed forces of that State. At the same time, the High Contracting Parties to Additional Protocol No.1 to the Geneva Conventions of 12 August 1949 on the Protection of Victims of International Armed Conflicts also provided that a mercenary was not entitled to combatant status or a prisoner of war¹ (Additional Protocol No.1 of June 10, 1977, article 47).

Following the ravages of Europe's cultural heritage during World War II, the international community called on UNESCO to draw up a convention, which was adopted in The Hague in 1954. From the outset, armed conflict law has sought to protect cultural property against the effects of hostilities. Therefore, the Hague IV Regulation contains provisions in this regard, but they proved insufficient during the First World War. Among the best-known initiatives is the Treaty of 15 April 1935 on the Protection of Artistic and Scientific Institutions and Historical Monuments, known as the Roerich Pact.

The preamble to the 1954 Hague Convention reflects the concept of the international community's responsibility for the protection of the world's cultural heritage, assuming: „people contribute to world culture. Considering that the preservation of the cultural heritage is of great importance to all the peoples of the world and that it is important to ensure international protection [...]” (Kordee, 2018).

According to the Convention for the Protection of Cultural Property in the Event of Armed Conflict, objects are considered to be cultural heritage, whatever their origin or property:

- movable or immovable property, which is of great importance for the cultural heritage, such as architectural, art or historical monuments, religious or secular, archaeological sites, construction groups which, as a whole, are of historical or artistic interest, works of art, manuscripts, books and other objects of artistic, historical or archaeological interest, as well as scientific collections and important collections of books, archives or reproductions of the given goods;

¹ Additional Protocol No.1 of June 10, 1977 to the Geneva Conventions of August 12, 1949 on the Protection of Victims of International Armed Conflicts, article 47.

- buildings, the main and effective purpose of which is to preserve or exhibit movable cultural property, such as museums, large libraries, archives, and shelters intended to house, *in case of armed conflict*, movable cultural property.² The High Contracting Parties to the above-mentioned Convention (in force for the Republic of Moldova since 09.03.2000), have undertaken to introduce from the time of peace, in the regulations or instructions for the use of their troops, provisions to ensure compliance with the Convention and to instill, from the time of peace, a spirit of respect for the personnel of the armed forces towards the culture and cultural goods of all peoples.

They undertake to prepare or establish, from time to time in peace, within the armed forces, services or specialized personnel, whose mission will be to ensure the observance of cultural property and to cooperate with the civilian authorities in charge of protecting such property.³

Article 56 of the Regulation annexed to the Hague Convention IV of 1907 states that: „Any seizure, destruction or intentional degradation of institutions of this type, of historical monuments, of works of art and science, is prohibited and must be brought to justice”.⁴

But not looking at these important international provisions for the protection of everything around us, armed attacks around the world, including those involving mercenaries – are harmful to the environment, which also has a negative impact on humanity.

Historically, environmental pollution has occurred with man, but it has developed and diversified as human society has evolved, becoming today one of the major concerns of specialists in various fields of science and technology, states and governments, the entire population of the earth. This is because the danger posed by pollution has increased and is constantly increasing, imposing urgent measures at national and international level, in the spirit of ideas for combating pollution.

Environmental pollution, especially in terms of adverse health effects, has over time covered several aspects of various types of pollution, namely:

I. Biological pollution, the oldest and best known form of pollution, is caused by the elimination and spread of disease-causing microbial germs in the

² Convention no.1954 of 14.05.1954 for the protection of cultural property in case of armed conflict // International Treaties no. 27 of 30.12.2001, in force for the Republic of Moldova of 09.03.2000, art. 1.

³ Convention no.1954 of 14.05.1954 for the protection of cultural property in case of armed conflict // International Treaties no.27 of 30.12.2001, in force for the Republic of Moldova of 09.03.2000, art. 2.

⁴ Regulation on the Laws and Customs of War annexed to the Hague Convention IV of 1907 on the Laws and Customs of Land Warfare, art. 56.

environment. Thus, bacterial pollution accompanies man alike, wherever he may be and no matter what stage of civilization he may be in, either in nomadic tribes or in the most evolved societies. The main danger posed by biological pollution is the outbreak of epidemics, which cause many casualties.

II. Chemical pollution consists of the elimination and spread in the environment of various chemicals. Chemical pollution is becoming more and more evident, both by increasing the level of pollution and especially by diversifying it. The main danger of chemical pollution is the high toxic potential of these substances.

III. Physical pollution is the most recent and includes, first of all, radioactive pollution as a result of the widespread use of radioactive isotopes in science, industry, agriculture, animal husbandry, medicine, etc. The special danger of radioactive substances is in the environment and in their harmful potential even at very low concentrations. Noise pollution is added to *radioactive pollution*, also as a component of physical pollution. Noise, as well as vibrations and ultrasound are frequently present in the work and living environment of modern man, and the intensities of noise pollution are constantly increasing (The environment).

In the region of Asia and Africa, due to the regrettable increase in armed attacks in recent years, including the participation of mercenaries on the battlefield, the environment has been subjected to extensive stages of danger, which are part of the three types of pollution mentioned, above.

Among the territorial areas where the environment was endangered due to armed attacks, the following can be seen in the illustration below:

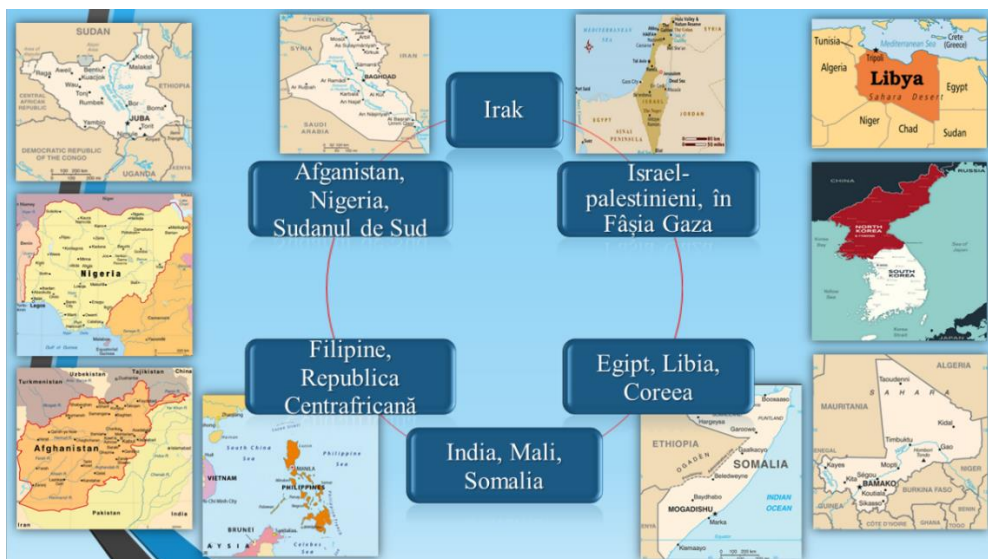


Figure 1. The territorial areas where the environment was endangered due to armed attacks

Moreover, because of these armed conflicts that unfortunately still occur, the environment is destroyed and in constant danger.

In terms of minimizing the negative danger to the environment, both the Republic of Moldova and Romania have approved / adhered to the most important legal norms, in order to protect the environment, especially during armed attacks with the participation of mercenaries.

On June 16, 1993, the Law on Environmental Protection was adopted by the Parliament of the Republic of Moldova. Thus, in the content of this normative act, the legislator expressly mentioned that the protection of the environment is a national priority, which directly targets the living conditions and health of the population, the realization of economic and social-human interests, as well as the sustainable development capacities of society, in the future. At the same time, within the normative limits of the booked law, the competencies of the Parliament, the President of the Republic, the Government and of the local self-administration bodies in the field of environmental protection were established; the rights and obligations of natural and legal persons with regard to environmental protection, and other essential environmental protection regulations, including during armed attacks.⁵

Romania, in turn, has acceded to and is a party to various treaties in the field of International Humanitarian Law and other relevant legal instruments for the protection of the environment during armed attacks, including those involving mercenaries.

Among them, we can mention the following:

1) Convention on the Beginning of Hostilities / Third Hague Convention, adopted at The Hague on 18 October 1907;

2) Convention on the Laws and Habits of Land Warfare / Fourth Hague Convention, adopted at The Hague on 18 October 1907;

3) Annex to the Fourth Hague Convention of 1907: Regulation on the observance of the laws and customs of land warfare, adopted at The Hague on 18 October 1907;

4) Protocol on the Prohibition of the Use of Asphyxiating, Poisonous Gas or Other Gases and Bacteriological Means of War, Adopted at Geneva on 17 June, 1925;

5) Convention for the Improvement of the Condition of the Wounded and Sick in the Armed Forces in the Campaign / First Geneva Convention, adopted in Geneva on 12 August 1864;

6) Convention for the Improvement of the Condition of the Wounded, Sick and Shipwrecked in the Armed Forces at Sea / Second Geneva Convention, adopted in Geneva on 12 August 1864;

⁵ Law no. 1515 of 16.06.1993 on environmental protection // Official Gazette of the Republic of Moldova no. 10 of 30.10.1993, in force according to the latest amendments and adjustments of 10.30.2022.

7) Convention concerning the Treatment of Prisoners of War / Third Geneva Convention, adopted at Geneva on 12 August 1949;

8) Convention concerning the Protection of Civilian Persons in Time of War / Fourth Geneva Convention, adopted at Geneva on 12 August 1949;

9) Additional Protocol No. 1 to the Geneva Conventions of 12 August 1949 for the Protection of Victims of International Armed Conflicts, adopted at Geneva on 10 June 1977;

10) Additional Protocol No. 2 to the Geneva Conventions of 12 August 1949 on the Protection of Victims of Non-International Armed Conflicts, adopted in Geneva on 10 June 1977;

11) Additional Protocol No.3 to the Geneva Conventions of 12 August 1949 on the Adoption of an Additional Distinctive Sign, adopted at Geneva on 6 December 2005;

12) Convention for the Protection of Cultural Property in the Event of Armed Conflict, adopted at The Hague on 14 May 1954;

13) Regulation implementing the Convention for the Protection of Cultural Property in the Event of Armed Conflict, adopted at The Hague on 14 May 1954;

14) Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, adopted at The Hague on 14 May 1954;

15) Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, adopted at The Hague on 26 March 1999;

16) Convention for the Prevention and Punishment of the Crime of Genocide, adopted in New York on 9 December, 1948;

17) Declaration (IV) on the Prohibition of the Use of Bullets that Wrap or Slightly Crawl in the Human Body, adopted in The Hague on 29 July, 1899;

18) Protocol Relating to the Prohibition of the Use of Asphyxiating, Toxic or Similar Gases and Bacteriological Means in the War, adopted at Geneva on 17 June, 1925;

19) the Convention on the Prohibition of the Processing, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, signed at London, Moscow and Washington on 10 April 1972;

20) the Convention on the Prohibition or Restriction of the Use of Certain Categories of Classical Weapons, which could be considered as producing excessive traumatic effects or which would strike without discrimination, adopted in Geneva on 10 October 1980;

21) Protocol on Undetectable Fragments (Protocol I to the 1980 Convention), adopted in Geneva on 10 October 1980;

22) Protocol Relating to the Prohibition or Restriction of the Use of Mines, Traps and Other Devices (Protocol II to the 1980 Convention), adopted in Geneva on 10 October 1980;

23) Protocol Relating to the Prohibition or Restriction of the Use of Firearms (Protocol III to the 1980 Convention), adopted at Geneva on 10 October 1980;

24) The Protocol on Laser Weapons That May Cause Blindness (Protocol IV to the 1980 Convention), adopted in Vienna on 13 October 1995;

25) The Protocol on Explosive Remnants of War (Protocol V to the 1980 Convention), adopted in Geneva on 28 November 2003;

26) the Convention on the Prohibition of the Processing, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction, signed in London, Moscow and Washington on 10 April 1972;

27) Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, adopted in Paris on 13 January 1993;

28) the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, adopted in Oslo on 18 September 1997;

29) the Convention on the Prohibition or Restriction of the Use of Certain Categories of Conventional Weapons Which Could Be Considered to Produce Excessive or Non-Discriminatory Traumatic Effects, adopted in Geneva on 10 October, 1980;

30) Protocol on Undetectable Fragments (Additional Protocol I to the 1980 Convention), adopted in Geneva on 10 October 1980;

31) Protocol to Prohibit or Restrict the Use of Mines, Trap Weapons and Other Devices (Additional Protocol II to the 1980 Convention), adopted in Geneva on 10 October 1980;

32) Protocol Relating to the Prohibition or Restriction of the Use of Firearms (Additional Protocol III to the 1980 Convention), adopted in Geneva on 10 October 1980;

33) The Protocol on Blind Laser Weapons (Additional Protocol IV to the 1980 Convention), adopted in Vienna on 13 October 1995;

34) Protocol on Explosive Remnants of War (Additional Protocol V to the 1980 Convention), adopted in Geneva on 28 November 2003;

35) Convention on the Rights of the Child, adopted in New York on 20 November, 1989;

36) Optional Protocol on the Involvement of Children in Armed Conflict to the Convention on the Rights of the Child, adopted in New York on 25 May 2000;

37) Convention on the Prohibition of the Use of Environmental Modification Techniques for Military or Other Hostile Purposes, adopted at Geneva on 18 May 1977;

38) The 1993 Statute of the Criminal Tribunal for the Investigation of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Former Yugoslavia since 1991;

39) 1994 Statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law in Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in Neighboring States Between 1 January 1994 and 31 December 1994;

40) Statute of the International Criminal Court, adopted in Rome on 17 July 1998 (The main treaties in the field of International Humanitarian Law to which Romania is party of, and other relevant legal instruments, list updated in March 2021).

Some of these international regulations have been ratified by the Republic of Moldova.

Conclusion

Following the analysis, it can be concluded that the environment is the basic cell of society. Once major efforts are made to protect the environment and everything around us – society will be full of life, and harmony and good governance will always prevail.

Notwithstanding this, there are also phenomena in the world that do not depend to a large extent on ordinary citizens. These phenomena are of various types: climatic conditions, explosions, volcanic eruptions, landslides, armed conflicts, and others. Armed attacks have an increased level and degree of danger to the environment. Especially when during these conflicts, forbidden methods and means of waging war, such as the direct participation of mercenaries on the battlefield, are used.

Under these conditions, in order to provide essential and meritorious protection to the environment, the Republic of Moldova has adopted its own legislation on environmental protection. And Romania, as a member state of the European Community, is a party to various treaties in the field of International Humanitarian Law and other relevant legal instruments for the protection of the environment during armed attacks, including those involving mercenaries.

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