

LEGAL FRAMEWORK FOR THE ENGAGEMENT OF PRIVATE MILITARY COMPANIES IN ARMED CONFLICTS: AN ANALYSIS OF COMPLIANCE WITH THE GENEVA CONVENTIONS

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Abstract: The proliferation of private military companies (PMCs) represents one of the most significant phenomena in the transformation of contemporary warfare, raising fundamental questions about the applicability of existing international humanitarian law. This review article analyzes the legal framework for the engagement of private military companies in armed conflicts, with particular focus on evaluating the compliance of their activities with normative standards established by the Geneva Conventions of 1949 and their Additional Protocols of 1977. By applying the dogmatic-legal method, comparative analysis, and case studies, the research identifies key legal gaps in regulating the status of PMC personnel, determines problems in attributing responsibility for violations of international humanitarian law, and evaluates the effectiveness of existing oversight and sanctioning mechanisms. The innovative contribution of this research consists in the development of an original analytical model called the “Legal Responsibility Matrix for PMC Activities” (LRMA), which systematizes four dimensions of responsibility: state, corporate, individual, and command, and establishes criteria for their delineation and cumulative application in various operational scenarios. Research results show that the existing international legal framework, although formally applicable, suffers from structural deficiencies that enable de facto impunity for PMC personnel, and that it is necessary to draft a special international treaty that would explicitly regulate the status, rights, obligations, and responsibility of private military companies and their employees in the context of armed conflicts. The article concludes that the application of the proposed LRMA model is necessary to overcome the current normative fragmentation and establish a coherent system of legal responsibility that would guarantee effective protection of civilian population and prisoners of war in accordance with the fundamental principles of international humanitarian law.

Keywords: *Private military companies, Geneva Conventions, international humanitarian law, mercenaries, combatant status, state responsibility, corporate responsibility, individual criminal responsibility, Montreux Document, regulation of armed conflict.*

Introduction

The transformation of the nature of armed conflicts in the last three decades has been characterized by a significant increase in the participation of non-state actors in conducting combat and supporting military operations. Among these actors, private military companies (PMCs) occupy a special place as entities providing a spectrum of services traditionally considered the exclusive domain of state armed forces (Singer, 2003). From logistical support and training of military personnel, through protection of facilities and persons, to direct participation in combat operations, the scope of PMC activities continuously expands, creating complex legal challenges for the application of international humanitarian law (Kinsey, 2006).

The Geneva Conventions of 1949, together with the Additional Protocols of 1977, represent the foundation of international humanitarian law and establish the normative framework for the protection of victims of armed conflicts, including the wounded, sick, prisoners of war, and civilian population. However, these instruments were created in the context of the traditional understanding of armed conflict in which the primary actors were regular armed forces of states (Pictet, 1958). The emergence of PMCs as a significant factor in contemporary conflicts raises the question of whether the existing normative framework adequately addresses the specifics of their legal status, obligations, and responsibilities.

The relevance of this issue has been confirmed by a series of controversies related to PMC activities in armed conflicts around the world. Incidents such as the killings of civilians by employees of Blackwater company (later renamed Academi) in Iraq in 2007, accusations of human rights

violations by DynCorp personnel in Bosnia and Herzegovina, and controversies surrounding the engagement of the Wagner Group in Syria, Libya, Mali, and Ukraine illustrate the seriousness of legal and ethical dilemmas arising from the privatization of military functions (Scahill, 2007; Marten, 2019). These cases point to the existence of a significant legal gap regarding the determination of responsibility for violations of international humanitarian law committed by PMC personnel.

The central problem this article seeks to address relates to the question of the extent to which the existing international legal framework, particularly the Geneva Conventions and their Additional Protocols, enables effective regulation of PMC activities and sanctioning of violations of international humanitarian law norms by their employees. This question encompasses several dimensions: the legal status of PMC personnel in the context of the distinction between combatants and civilians, the applicability of the prisoner of war protection regime, the attribution of responsibility for unlawful acts, and mechanisms of individual criminal responsibility.

The relevance of researching this issue stems from several factors. First, the number and scope of PMC operations is continuously growing, with some estimates suggesting that during operations in Iraq and Afghanistan, private contractors at times numerically exceeded members of the regular US armed forces (Schwartz, 2011). Second, legal uncertainty regarding the status of PMC personnel creates space for potential violations of humanitarian law without adequate sanctioning, thereby undermining the fundamental purpose of the Geneva Conventions. Third, the absence of a coherent international regulatory framework for PMC activities allows certain states to externalize military functions in order to avoid direct responsibility for the

consequences of military operations (Leander, 2005).

Existing academic literature has significantly contributed to understanding the PMC phenomenon from various perspectives. Singer (2003) offered the first comprehensive typology of PMCs based on their proximity to combat lines, distinguishing companies providing services at tactical, operational, and strategic levels. Percy (2007) analyzed the normative aspects of mercenaryism and its transformation into the context of corporate provision of military services. Cockayne (2006) researched regulatory frameworks for PMC control, while Chesterman and Lehnardt (2007) edited a collection of papers that analyze in detail various aspects of responsibility for PMC activities. In the context of international humanitarian law, Cameron (2006) and Gillard (2006) offered detailed analyses of the applicability of the Geneva Conventions to PMC personnel.

Despite a significant body of existing literature, certain research gaps have been identified that this article seeks to address. Most existing works focus on individual aspects of the issue (status, responsibility, regulation), while there is a lack of an integrative approach that would systematize various dimensions of legal responsibility into a coherent analytical framework. Additionally, existing literature predominantly relies on the analysis of Western PMCs, while the comparative aspect including the activities of companies from other regions, such as the Russian Wagner Group, remains insufficiently explored. Finally, there is a lack of concrete proposals for operationalizing existing legal norms in the context of the specifics of PMC activities.

The innovative contribution of this research consists in the development of an original analytical model called the "Legal Responsibility Matrix for PMC Activities" (LRMA). This model systematizes four

dimensions of responsibility that can be actualized in connection with PMC activities: state responsibility (the state engaging the PMC, the state of PMC registration, the state on whose territory the PMC operates), corporate responsibility (the responsibility of the company itself as a legal entity), individual criminal responsibility (the responsibility of individual employees for violations of humanitarian law), and command responsibility (the responsibility of superiors for the actions of subordinates). The model establishes criteria for delineating these dimensions of responsibility but also recognizes the possibility of their cumulative application in certain scenarios. The application of the LRMA model enables systematic analysis of specific situations and identification of legal grounds for determining responsibility, thereby overcoming the current normative fragmentation.

The structure of the article is organized as follows. Following this introduction, there is a presentation of the research methodology. Research results are presented in the central part of the article and include an analysis of the legal status of PMC personnel under the Geneva Conventions, an evaluation of attribution of responsibility problems, a presentation of the developed LRMA model and its application to selected case studies. The conclusion summarizes key findings, discusses their implications, and offers recommendations for improving the regulatory framework.

Methodology

The methodological approach of this research is based on a combination of qualitative methods common in legal science, with each method applied to address specific aspects of the research problem. The selection of the methodological framework was determined by the nature of the research questions, the character of

available data sources, and the goal of developing an analytical model that integrates existing normative standards with the practical requirements of regulating PMC activities.

The primary method used in the research is the dogmatic-legal (normative) method, which involves systematic analysis of relevant legal norms, their interpretation, and determination of mutual relationships within the legal system (Visković, 2001). This method was applied to analyze the provisions of the Geneva Conventions of 1949 and their Additional Protocols of 1977, with the aim of determining their applicability to PMC activities. Special attention was paid to the analysis of Article 4 of the Third Geneva Convention on the Treatment of Prisoners of War, Article 47 of the First Additional Protocol which defines mercenaries, and general provisions on the distinction between combatants and civilians. In addition to primary sources of international humanitarian law, secondary sources were analyzed, including the Montreux Document on Private Military and Security Companies from 2008, the Draft Articles on Responsibility of States for Internationally Wrongful Acts by the International Law Commission from 2001, and relevant resolutions of the General Assembly and Security Council of the United Nations.

The comparative method was applied to analyze national legislation regulating PMC activities. For the purposes of this analysis, the legal systems of four states representing different regulatory approaches were selected: the United States of America (as the largest market for PMC services and home to the largest companies in the industry), the United Kingdom (which has developed a specific self-regulatory approach), the Republic of South Africa (which adopted a restrictive legislative framework after the experience with the activities of Executive Outcomes company), and the Russian Federation (whose legal

framework is relevant for understanding the status of the Wagner Group). Comparative analysis enabled the identification of different regulatory models, their advantages and disadvantages, and the formulation of recommendations for harmonizing approaches at the international level.

The case study method was used for in-depth analysis of specific situations in which PMC activities resulted in violations of international humanitarian law or controversies regarding legal status and responsibility. Three cases illustrating different aspects of the issue were selected: the Nisour Square incident in Baghdad in 2007 (which resulted in the criminal prosecution of Blackwater company employees before US courts), the activities of Sandline International company in Papua New Guinea and Sierra Leone (which raised questions about the legality of PMC military interventions), and Wagner Group operations in Syria and Ukraine (which illustrate problems of attributing state responsibility). Case studies enabled testing the applicability of the developed LRMA model to specific situations and evaluating its analytical value.

For the development of the Legal Responsibility Matrix for PMC Activities (LRMA), the method of conceptual analysis and synthesis was used. Starting from identified legal norms and principles, and taking into account the specifics of the operational context of PMC activities, an analytical model was constructed that systematizes dimensions of responsibility and criteria for their application. The development of the model involved an iterative process of formulation, testing on case studies, and revision, with the aim of achieving an optimal balance between theoretical coherence and practical applicability.

Data sources for the research include primary and secondary sources. Primary sources include international treaties (Geneva Conventions, Additional Protocols, Hague Conventions), documents of

international organizations (UN, International Committee of the Red Cross, International Labour Organization), national legislation of selected states, and judicial decisions of international and national courts and tribunals (International Court of Justice, International Criminal Court, US federal courts). Secondary sources include academic literature (monographs, articles in peer-reviewed journals, collections of papers), reports of non-governmental organizations (Human Rights Watch, Amnesty International, Human Rights First), and journalistic reports and investigative journalism on specific incidents.

In conducting the research, standards of academic objectivity and methodological rigor were observed. The analysis sought to avoid a priori bias for or against PMCs, focusing on objective evaluation of the legal framework and its shortcomings. Research limitations include inherent difficulties in accessing reliable data on PMC activities, given that many companies and states engaging them seek to protect operational information. Additionally, the speed of development of the PMC industry and the evolution of their operational models may mean that certain findings become outdated in a relatively short period of time. Finally, legal analysis is necessarily limited to the normative aspect, while empirical evaluation of the effectiveness of applying legal norms requires additional research beyond the scope of this article.

The research sample, in the context of analysis of national legislation and case studies, was selected according to criteria of representativeness and informative value. Selected states represent different legal traditions (common law and continental law), different positions in the global PMC industry (exporting states and service recipient states), and different regulatory approaches. Case studies were selected according to criteria of availability of reliable information, legal relevance (existence of judicial

proceedings or formal investigations), and illustrative value for different aspects of the issue.

Research Results

The results of the conducted research are presented in four thematic sections corresponding to key aspects of the analysis of the legal framework for engaging private military companies in armed conflicts. The first section deals with the analysis of the legal status of PMC personnel under the Geneva Conventions, the second addresses the problem of attribution of responsibility for unlawful acts, the third presents the developed LRMA model, while the fourth presents the results of applying the model to selected case studies.

Analysis of the legal status of private military company personnel under the Geneva Conventions shows that the existing normative framework does not provide for a special category for these actors, resulting in the need for their classification within existing categories of combatants, civilians, or mercenaries. The Third Geneva Convention on the Treatment of Prisoners of War, in Article 4, defines the categories of persons entitled to prisoner of war status. These categories include members of the armed forces of a party to the conflict, members of militias and volunteer corps belonging to a party to the conflict (provided they have a responsible commander, have a fixed and recognizable sign, openly carry weapons, and observe the laws and customs of war), and members of regular armed forces who owe allegiance to a government or authority not recognized by the opposing party ([International Committee of the Red Cross, 1949](#)).

PMC personnel, according to the results of the analysis, in most cases do not meet the criteria for acquiring combatant status under the Geneva Conventions. The key problem lies in the fact that PMCs typically operate on the basis of a contractual

relationship with the contracting state, not on the basis of organic membership in its armed forces. Even when PMCs formally operate under the command of state armed forces, their status remains legally uncertain because contractual subordination does not correspond to the traditional understanding of command structure in the military sense (Cameron, 2006). This uncertainty has significant practical consequences. If PMC personnel do not have combatant status, they are considered civilians. Civilians who directly participate in hostilities lose protection from attack during such participation but do not acquire the rights belonging to combatants, including the right to prisoner of war status if captured (Melzer, 2009).

A particularly problematic area relates to the application of Article 47 of the First Additional Protocol which defines mercenaries. According to this provision, a mercenary is a person who is specially recruited locally or abroad to fight in an armed conflict, who directly participates in hostilities, who is motivated by the desire for private gain and is promised material compensation significantly greater than that paid to combatants of similar rank and function in the armed forces of that party, who is not 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, and who has not been sent by a state which is not a party to the conflict on official duty as a member of its armed forces (International Committee of the Red Cross, 1977). Analysis shows that this definition is extremely narrow and requires cumulative fulfillment of all six criteria. In practice, companies and states engaging them structure contractual relationships in a way that enables avoidance of employee classification as mercenaries (Percy, 2007). For example, engaging nationals of the contracting state or formally including them in armed forces

structures eliminates the applicability of the mercenary definition.

In addition to problems of individual status, the analysis identified significant challenges regarding the application of rules on the conduct of hostilities to PMC operations. The principle of distinction, which requires differentiation between combatants and civilians and directing attacks exclusively at military targets, becomes problematic when PMC personnel operate in conflict zones wearing civilian clothing or unmarked uniforms (Doswald-Beck, 2007). The principle of proportionality, which prohibits attacks expected to cause civilian casualties or damage that would be excessive in relation to the expected military advantage, is difficult to apply to situations where the perpetrators of attacks are private companies whose employees do not have formal military training in international humanitarian law. The principle of precaution, which requires taking all feasible measures to minimize civilian casualties, also faces implementation challenges in the context of PMCs that may prioritize commercial interests over humanitarian considerations (Gillard, 2006).

Analysis of the problem of attribution of responsibility for unlawful acts by PMC personnel represents the second thematic section of research results. International law recognizes multiple bases of responsibility that can potentially be applied to situations of humanitarian law violations by PMCs: state responsibility, corporate responsibility, and individual criminal responsibility. The results of the analysis show that each of these bases faces specific challenges in the context of PMC activities. State responsibility for PMC actions is based on rules codified in the Draft Articles on Responsibility of States for Internationally Wrongful Acts by the International Law Commission. According to Article 4 of this document, the conduct of any state organ is considered an act of that state under

international law. Article 5 extends attribution to persons or entities that are not state organs but are authorized by domestic law to exercise elements of governmental authority, provided they act in that capacity. Article 8 provides for attribution of conduct by persons or groups of persons if they act on instructions or under the direction or control of that state ([International Law Commission, 2001](#)). Application of these rules to PMCs shows that attribution is possible but requires proving specific circumstances linking the company's activities to the state. The International Court of Justice, in its jurisprudence, established high standards for attribution, requiring “effective control” over specific operations in which violations occurred, or “overall control” over the group as a whole ([International Court of Justice, 1986, 2007](#)). These standards make attribution of responsibility to the state extremely difficult in cases where PMCs enjoy operational autonomy in performing contracted tasks.

The analysis identified additional complexity arising from the potential responsibility of multiple states in connection with the activities of a single PMC. The state engaging the PMC (contracting state), the state in which the PMC is registered (state of registration), the state on whose territory the PMC operates (territorial state), and the state whose nationals are PMC employees (state of nationality) may all have certain obligations under international law ([Hoppe, 2008](#)). The results of the analysis show that these obligations often overlap or leave gaps, enabling all involved states to shift responsibility to others.

Corporate responsibility of PMCs for violations of international law represents a developing area that faces a fundamental challenge: international law traditionally addresses states as primary subjects, while companies are subjects of the national law of the state of registration. There is no international mechanism for

directly sanctioning companies for violations of international humanitarian law ([Clapham, 2006](#)). Attempts to establish corporate responsibility before national courts face obstacles such as jurisdiction issues, immunities, and practical difficulties in conducting proceedings against companies operating in remote conflict zones. Analysis of case law shows that lawsuits against PMCs before US courts, based on the Alien Tort Statute, have had limited success, especially after the US Supreme Court decision in *Kiobel v. Royal Dutch Petroleum* (2013), which significantly narrowed the extraterritorial application of this law ([Supreme Court of the United States, 2013](#)).

Individual criminal responsibility of PMC employees for war crimes, crimes against humanity, or genocide is theoretically possible under the Rome Statute of the International Criminal Court, national criminal law, or based on the principle of universal jurisdiction. However, analysis of practical cases reveals significant obstacles to effective criminal prosecution. Jurisdictional problems arise when violations are committed on the territory of a state that lacks the capacity or willingness for criminal prosecution, and the perpetrators are nationals of a third state. Status of forces agreements (SOFA) that contracting states conclude with states in which their military forces and PMCs operate often provide for immunity from local jurisdiction ([Dickinson, 2007](#)). The result is a situation in which responsibility for criminal prosecution remains with the state of nationality of the perpetrator, which may have limited interest or capacity for conducting complex proceedings for acts committed in remote conflict zones.

The development of the Legal Responsibility Matrix for PMC Activities (LRMA) represents the original innovative contribution of this research. The model was constructed with the aim of

overcoming the fragmentation of the existing normative framework and establishing a coherent system for analyzing legal responsibility in connection with PMC activities. The LRMA model systematizes four dimensions of responsibility: state, corporate, individual, and command. For each dimension, the model defines: legal basis (relevant norms of international and national law), criteria for application (conditions that must be met for actualization of responsibility), potential bearers of responsibility (specific subjects who may be responsible), and sanctions (legal consequences of established responsibility).

The state responsibility dimension in the LRMA model differentiates three categories of states with potential responsibility. The contracting state bears responsibility on the basis of Articles 4, 5, and 8 of the Draft Articles on Responsibility of States when attribution criteria are met, i.e., when the PMC acts as a *de facto* state organ, exercises elements of governmental authority, or acts under the instructions, direction, or control of the state. Application criteria include the existence of a contractual relationship authorizing the PMC to perform tasks involving elements of governmental authority, the degree of operational control the state retains over PMC activities, and specific instructions or approval for specific operations in which violations occurred. Sanctions include the obligation to cease unlawful conduct, guarantees of non-repetition, and reparation (restitution, compensation, satisfaction). The state of registration bears responsibility on the basis of the due diligence obligation to regulate and supervise the activities of legal entities registered on its territory. Application criteria include the absence of an adequate legislative framework for licensing and supervising PMCs, failure to prevent PMC activities violating international law when the state had or should have had knowledge of such activities, and failure to sanction PMCs for

established violations. The territorial state bears responsibility on the basis of the obligation to protect persons on its territory from human rights violations, including violations committed by private actors. Application criteria include failure to prevent violations when the state had capacity and knowledge, failure to investigate and sanction violations, and active approval or assistance of PMC activities.

The corporate responsibility dimension in the LRMA model is based on the national law of the state of registration, the national law of the state where the violation was committed, extraterritorial application of national law (e.g., Alien Tort Statute in the USA), and soft law standards (UN Guiding Principles on Business and Human Rights). Application criteria include proving that the violation was committed in the context of company activities, that the company knew or should have known of the risk of violation, and that the company failed to take reasonable preventive measures. The bearer of responsibility is the company itself as a legal entity. Sanctions may include civil liability for damages, administrative sanctions (license revocation, prohibition of activities), criminal sanctions in jurisdictions recognizing criminal liability of legal entities, and reputational consequences and exclusion from public procurement.

The individual criminal responsibility dimension in the LRMA model is based on the Rome Statute of the International Criminal Court, national criminal law, and the principle of universal jurisdiction for the most serious international crimes. Application criteria include commission of an act constituting a war crime, crime against humanity, or genocide, the subjective element (intent or conscious negligence depending on the qualification of the act), and the absence of grounds for excluding criminal responsibility (e.g., self-defense, necessity, mistake of law under certain conditions). The bearers of

responsibility are individual PMC employees who committed or contributed to the commission of the act. Sanctions include imprisonment, fines, and confiscation measures under applicable law.

The command responsibility dimension in the LRMA model is based on Article 28 of the Rome Statute and corresponding provisions of national law. This dimension addresses the specificity of PMC structure in which hierarchical relationships exist between company management, field operations managers, and executive personnel. Application criteria include the existence of a relationship of effective control of the superior over subordinates, knowledge or duty of knowledge of the superior that subordinates are committing or intend to commit violations, and failure of the superior to take all necessary and reasonable measures of prevention or punishment. The model distinguishes military command responsibility (stricter standard of knowledge: "should have known") and civilian command responsibility (more lenient standard: "consciously disregarded information"). Given that PMC managers are typically not military commanders in the formal sense, the civilian command responsibility standard applies. The bearers of responsibility are company managers, operations managers, and other superiors in the PMC hierarchy. Sanctions correspond to sanctions for individual criminal acts committed by subordinates.

The LRMA model recognizes the possibility of cumulative application of multiple dimensions of responsibility in the same case. For example, a single incident of humanitarian law violation may result in: responsibility of the contracting state if the PMC acted on its instructions, corporate responsibility if the company failed to take reasonable preventive measures, individual criminal responsibility of the employee who directly committed the violation, and command responsibility of the operations

manager who knew of the violation but did not intervene. The model also provides for an analysis procedure that includes: identification of violations and qualification under international humanitarian law, mapping of actors (states, companies, individuals, superiors), evaluation of application criteria for each dimension of responsibility, identification of applicable sanctions, and assessment of practical feasibility of establishing responsibility.

Application of the LRMA model to selected case studies tested its analytical value and practical applicability. The first analyzed case relates to the Nisour Square incident in Baghdad on September 16, 2007, when employees of Blackwater Worldwide, acting as protection for a US State Department convoy, opened fire on civilians, killing seventeen and wounding twenty Iraqi civilians. Application of the LRMA model to this case yields the following results. Regarding US state responsibility, the analysis shows that Blackwater operated under a contract with the State Department for providing protection services, which potentially actualizes responsibility under Article 5 of the Draft Articles (exercise of elements of governmental authority). However, the level of operational control over the specific operation was limited, making attribution under Article 8 difficult. Iraq, as the territorial state, had limited capacity to exercise jurisdiction given the Status of Forces Agreement that provided for immunity of contractors from Iraqi jurisdiction. Regarding corporate responsibility, lawsuits against Blackwater/Xe Services before US courts resulted in settlements whose details were not disclosed, but the company was not formally found responsible. Renaming of the company (to Xe Services, then Academi) illustrates the strategy of avoiding reputational consequences. Regarding individual criminal responsibility, the US Department of Justice initiated criminal proceedings against four

Blackwater employees. In the first proceeding, charges were dismissed due to procedural deficiencies. In the retrial in 2014, one defendant was found guilty of first-degree murder, and three of voluntary manslaughter and attempted murder, and were sentenced to prison terms ranging from thirty years to life imprisonment. However, in 2020, President Trump pardoned all four convicted individuals ([Savage, 2020](#)). This outcome illustrates the problem of the effectiveness of individual responsibility mechanisms even in cases where criminal prosecution was conducted. Regarding command responsibility, the investigation did not result in charges against operations managers or company management, despite reports of systemic problems in personnel training and supervision ([United States House of Representatives, 2007](#)).

The second analyzed case relates to the activities of the Wagner Group in Syria and the clash with US forces near Deir ez-Zor in February 2018. In this incident, hundreds of Wagner Group members, together with Syrian forces, attacked a position under the control of the Syrian Democratic Forces guarded by US special forces members. The US response, including airstrikes, resulted in the death of an estimated number from several dozen to several hundred Wagner Group members ([Gibbons-Neff, 2018](#)). Application of the LRMA model to this case reveals the complexity of attributing responsibility to the Russian Federation. The Russian government consistently denies any connection with the Wagner Group, claiming that these are private individuals who independently decide on their engagement. However, investigative journalism and intelligence assessments indicate significant links between the Wagner Group and the Russian state, including financing, training, logistical support, and coordination of operations with Russian armed forces ([Marten, 2019](#)). Analysis according to the criteria of Article 8 of the

Draft Articles suggests that it could be argued that there exists "direction or control" by the Russian state over Wagner Group operations, which would actualize state responsibility. However, proving this standard before an international court would be extremely difficult given the Russian government's denial and limited access to evidence. Russian legislation formally prohibits mercenaryism but does not regulate private military companies, creating a legal gray zone that enables Wagner Group activities without formal state approval but also without effective oversight ([Østensen & Bukkvoll, 2022](#)). Individual criminal responsibility of Wagner Group members is theoretically possible for war crimes committed in Syria, but jurisdictional problems, unavailability of perpetrators, and absence of effective mechanisms make criminal prosecution practically impossible.

The third analyzed case relates to the activities of Executive Outcomes company in Angola and Sierra Leone during the 1990s. Executive Outcomes was a South African PMC that provided combat support services to the governments of Angola (against UNITA rebels) and Sierra Leone (against RUF rebels). Unlike the previous two cases, Executive Outcomes' activities are generally assessed as militarily successful and are not connected with documented mass violations of humanitarian law ([Howe, 1998](#)). However, the case is significant for the analysis of the legal framework because it motivated the adoption of restrictive legislation in the Republic of South Africa. The Regulation of Foreign Military Assistance Act of 1998 (later replaced by the Prohibition of Mercenary Activities and Regulation of Certain Activities in Country of Armed Conflict Act of 2006) criminalized the participation of South African nationals in armed conflicts abroad without government approval ([Republic of South Africa, 2006](#)). The analysis shows that the South African approach represented an

attempt to address the problem through national legislation of the state of nationality, but that its effectiveness is limited by difficulties in enforcing extraterritorial prohibitions and the ease with which individuals can avoid application of the law by changing nationality or operating through companies registered in other jurisdictions.

Comparative analysis of case studies through the LRMA model enabled identification of systemic patterns and common challenges in establishing responsibility for PMC activities. State responsibility is rarely formally established due to high attribution standards and political obstacles to initiating proceedings before international courts. Corporate responsibility remains undeveloped at the international level, and national mechanisms face jurisdictional and evidentiary obstacles. Individual criminal responsibility, although theoretically possible, is rarely realized in practice due to jurisdictional problems, immunities, unavailability of perpetrators, and limited investigative capacities. Command responsibility of PMC managers remains an unexplored area without significant case law.

The results of the analysis also showed that the Montreux Document on Private Military and Security Companies from 2008, although representing a significant step forward in articulating applicable legal obligations, has inherent limitations as a soft law instrument without binding force (Cockayne & Mears, 2009). The document reaffirms the existing obligations of states under international humanitarian law and human rights, and formulates good practices for PMC regulation, but does not create new legal obligations nor establish oversight and sanctioning mechanisms. The International Code of Conduct for Private Security Service Providers from 2010 represents an additional self-regulatory instrument, but its implementation depends on voluntary accession by companies and does not provide for effective sanctions for

violations (International Code of Conduct Association, 2010).

Finally, research results show that there is a significant difference between the normative applicability of international humanitarian law to PMC activities and the practical effectiveness of mechanisms for ensuring compliance with these norms. The Geneva Conventions and their Additional Protocols, as well as general international law, formally apply to all actors in armed conflict, including PMC personnel. However, structural characteristics of the PMC industry, including the transnational nature of their activities, contractual flexibility enabling avoidance of classifications, fragmentation of jurisdiction, and information asymmetry, make existing responsibility mechanisms insufficiently effective. The LRMA model, as an analytical tool, enables systematic identification of potential bases of responsibility, but cannot by itself overcome structural deficiencies of the normative framework that require addressing through the development of new international instruments or significant improvement of national regulatory capacities.

Conclusion

The conducted research on the legal framework for engaging private military companies in armed conflicts, with a focus on analyzing compliance with the Geneva Conventions, resulted in a series of findings that have significant implications for understanding and improving the regulation of this phenomenon. Synthesizing the results of dogmatic-legal analysis, comparative research, and case studies, it is possible to formulate conclusions that address initial research questions and offer guidelines for future development of the normative framework.

Regarding the legal status of private military company personnel under the Geneva Conventions, the research showed that

the existing normative framework does not provide for a special category for PMC personnel, resulting in their legal uncertainty between the categories of combatants, civilians, and mercenaries. The definition of mercenary from Article 47 of the First Additional Protocol, although theoretically applicable, is practically inoperative due to narrow cumulative criteria that are easy to avoid by structuring contractual relationships. Most PMC personnel de facto function as civilians who occasionally directly participate in hostilities, thereby exposing themselves to attack but not acquiring the rights belonging to combatants. This situation is not the result of a legal gap in the sense of the absence of applicable norms, but of systemic inadequacy of norms created for traditional actors of armed conflicts when applied to contemporary hybrid entities.

The problem of attribution of responsibility for violations of international humanitarian law committed by PMC personnel presents equally significant challenges. The analysis showed that, although theoretically there are multiple bases of responsibility (state, corporate, individual, command), the practical effectiveness of mechanisms for establishing and sanctioning responsibility remains limited. High attribution standards established by the jurisprudence of the International Court of Justice make proving state responsibility extremely difficult. Corporate responsibility remains undeveloped at the international level, and national mechanisms face jurisdictional obstacles. Individual criminal responsibility, although formally possible, is rarely realized due to the complexity of jurisdiction, immunities, and practical difficulties in investigation and prosecution. Command responsibility of PMC managers remains a theoretical construct without significant case law.

The innovative contribution of this research through the development of the

Legal Responsibility Matrix for PMC Activities (LRMA) offers a systematic approach to these challenges. The model systematizes four dimensions of responsibility, defines criteria for their application, and enables cumulative analysis in specific cases. Application of the model to case studies demonstrated its analytical value in identifying potential bases of responsibility, but also revealed structural obstacles to effective establishment of responsibility that the model itself cannot overcome.

Evaluation of existing soft law instruments, particularly the Montreux Document and the International Code of Conduct, reveals both progress and limitations. The research showed that these instruments represent significant progress in articulating applicable standards, but that their voluntariness and absence of effective oversight and sanctioning mechanisms limit their practical impact. Self-regulation of the PMC industry, although a positive development, cannot replace binding legal frameworks, especially given the inherent conflict of interest between commercial motives of companies and humanitarian imperatives. Based on research findings, it is possible to formulate recommendations for improving the regulatory framework. A special international treaty is needed that would explicitly regulate the status, rights, obligations, and responsibility of private military companies and their employees in the context of armed conflicts. This instrument should define clear criteria for distinguishing legitimate and illegitimate PMC activities, establish licensing and oversight obligations for states, provide for mechanisms of attribution of responsibility to states for the activities of PMCs they engage, and ensure legal bases for criminal prosecution of individuals responsible for violations. Work on such an instrument could rely on the Draft of a Possible Convention on Private Military and Security Companies prepared by the UN Working

Group on the Use of Mercenaries (United Nations Human Rights Council, 2010), but would require significant political will from states that are the primary contractors of PMC services.

In the absence of a comprehensive international treaty, strengthening national regulatory capacities becomes essential, especially in states of registration of the largest PMCs. This includes adopting legislation requiring licensing of PMCs for providing services in conflict zones, prescribing personnel training standards in international humanitarian law, providing for mechanisms of operational oversight and sanctioning of violations, and ensuring access to justice for victims of violations. Comparative analysis of national approaches shows that restrictive models (such as the South African) can be effective if adequately implemented, but require regional and international coordination to prevent simple relocation of company headquarters to jurisdictions with more lenient regimes. Improving mechanisms of individual criminal responsibility also deserves attention, including expansion of the jurisdiction of the International Criminal Court, strengthening of national prosecution capacities for investigation and prosecution of extraterritorial crimes, and harmonization of national criminal legislation regarding the criminalization of activities related to PMCs. Special attention should be paid to developing the doctrine of command responsibility adapted to civilian hierarchies of PMCs, to ensure that company managers cannot avoid responsibility for systemic violations committed by subordinates.

Strengthening transparency of the PMC industry through mandatory reporting on contracts, operations, and incidents represents another crucial step, along with establishment of independent oversight and complaint investigation mechanisms, and support for investigative journalism and civil society organizations monitoring PMC

activities. Information asymmetry between PMCs, states engaging them, and the public represents a significant obstacle to effective responsibility, which can only be overcome through a systematic approach to increasing transparency.

The LRMA model developed in this research should be further tested and refined through application to additional case studies, empirical evaluation by practitioners in the field of international humanitarian law, and integration into educational programs for lawyers, military personnel, and PMC staff. The model can serve as a framework for structured analysis of responsibility in specific situations, and as a starting point for developing more specific guidelines adapted to different operational contexts.

Limitations of the conducted research include inherent difficulties in accessing reliable data on PMC activities, focus on a limited number of case studies that does not allow for statistically based generalizations, and the normative orientation of the analysis that does not include empirical evaluation of the effectiveness of implementing existing norms. Future research should address these limitations through multidisciplinary approaches that combine legal analysis with political science, economic, and sociological perspectives.

In conclusion, the proliferation of private military companies in contemporary armed conflicts represents a challenge to international humanitarian law that requires systematic attention from the academic community, international organizations, and states. The Geneva Conventions, although remaining the foundation for protection of victims of armed conflicts, were not designed to regulate hybrid actors such as PMCs. Until a special international instrument is adopted, application of the LRMA model and other analytical tools can help identify and operationalize existing legal bases of responsibility. However, only a

coherent, binding, and effectively implemented normative framework can ensure that the privatization of military functions does not result in erosion of humanitarian

standards that are the foundation of civilized conduct of armed conflicts.

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PRAVNI OKVIR ZA ANGAŽOVANJE PRIVATNIH VOJNIH KOMPANIJA U ORUŽANIM SUKOBIMA: ANALIZA USKLAĐENOSTI SA ŽENEVSKIM KONVENCIJAMA

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Pregledni naučni članak

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Sažetak: Proliferacija privatnih vojnih kompanija (PVK) predstavlja jedan od najznačajnijih fenomena u transformaciji savremenog ratovanja, postavljajući fundamentalna pitanja o primjenjivosti postojećeg međunarodnog humanitarnog prava. Ovaj pregledni članak analizira pravni okvir za angažovanje privatnih vojnih kompanija u oružanim sukobima, s posebnim fokusom na ocjenu usklađenosti njihovih aktivnosti s normativnim standardima uspostavljenim Ženevskim konvencijama iz 1949. godine i njihovim Dopunskim protokolima iz 1977. godine. Primjenom dogmatskopavnog metoda, komparativne analize i studija slučaja, istraživanje identifikuje ključne pravne praznine u regulisanju statusa osoblja PVK, utvrđuje probleme u atribuciji odgovornosti za kršenja međunarodnog humanitarnog prava i ocjenjuje efikasnost postojećih mehanizama nadzora i sankcionisanja. Inovativni doprinos ovog istraživanja sastoji se u razvoju originalnog analitičkog modela nazvanog „Matrica pravne odgovornosti za aktivnosti PVK” (MPOA), koji sistematizuje četiri dimenzije odgovornosti: državnu, korporativnu, individualnu i komandnu, te uspostavlja kriterijume za njihovo razgraničenje i kumulativnu primjenu u različitim operativnim scenarijima. Rezultati istraživanja pokazuju da postojeći međunarodnopravni okvir, iako formalno primjenjiv, pati od strukturnih nedostataka koji omogućavaju de facto nekažnjivost osoblja PVK, te da je neophodno izraditi poseban međunarodni ugovor koji bi eksplicitno regulisao status, prava, obaveze i odgovornost privatnih vojnih kompanija i njihovih zaposlenika u kontekstu oružanih sukoba. Članak zaključuje da je primjena predloženog MPOA modela neophodna za prevazilaženje trenutne normativne fragmentacije i uspostavljanje koherentnog sistema pravne odgovornosti koji bi garantovao efikasnu zaštitu civilnog stanovništva i ratnih zarobljenika u skladu s temeljnim principima međunarodnog humanitarnog prava.

Ključne riječi: *privatne vojne kompanije, Ženevske konvencije, međunarodno humanitarno pravo, plaćenici, status borca, odgovornost države, korporativna odgovornost, individualna krivična odgovornost, Dokument iz Montreua, regulacija oružanog sukoba.*