

THE ROLE OF THE COMMONWEALTH OF INDEPENDENT STATES (CIS) IN ADDRESSING MERCENARISM: LEGAL FRAMEWORKS, COOPERATIVE MEASURES, AND CHALLENGES

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Abstract. *This thesis investigates the Commonwealth of Independent States' (CIS) efforts to address mercenarism—the recruitment, use, financing, and training of individuals for private gain in armed conflicts. It analyzes the CIS's legal frameworks, cooperative mechanisms, and enforcement challenges through a combination of regional agreements, national legislation, and case studies. While the CIS has established significant anti-mercenary measures, its effectiveness is hampered by political divisions, enforcement gaps, and instances of state complicity. Recommendations are provided to strengthen its role in combating mercenarism.*

Key words: Mercenarism, CIS, PMC, legislation, armed conflicts

Аннотация. *В этой диссертации исследуются усилия Содружества Независимых Государств (СНГ) по борьбе с наемничеством — вербовкой, использованием, финансированием и обучением лиц для личной выгоды в вооруженных конфликтах. В ней анализируются правовые рамки СНГ, кооперативные механизмы и проблемы правоприменения посредством сочетания региональных соглашений, национального законодательства и тематических исследований. Хотя СНГ установило значительные меры по борьбе с наемничеством, их эффективность сдерживается политическими разногласиями, пробелами в правоприменении и случаями государственного соучастия. Даны рекомендации по усилению его роли в борьбе с наемничеством.*

Ключевые слова: Наемничество, СНГ, ЧВК, законодательство, вооруженные конфликты

Introduction. Mercenarism poses a persistent threat to international peace and security, exploiting conflict zones for profit. The Commonwealth of Independent States (CIS), established in 1991 after the Soviet Union's collapse, unites post-Soviet states in addressing regional security challenges, including mercenarism. This thesis explores the CIS's role in combating mercenarism by examining its legal frameworks, cooperative efforts, and practical challenges. It assesses these

efforts against international standards and provides a critical evaluation of their effectiveness, supported by case studies and reliable sources.

Literature Review. Mercenarism is defined internationally under *Article 47 of Protocol I Additional to the Geneva Conventions (1977)*, which lists six criteria for identifying mercenaries.¹ *The 1989 International Convention against the Recruitment, Use, Financing and Training of Mercenaries*² criminalizes mercenary activities but suffers from weak enforcement due to jurisdictional and political barriers.³ Within the CIS, mercenarism is a pressing issue given the region's history of ethnic conflicts and the emergence of private military actors.⁴ Scholars argue that while the CIS has developed legal tools to address mercenarism, their implementation is inconsistent due to political fragmentation and enforcement limitations.⁵

CIS Legal Frameworks on Mercenarism. The CIS has established a regional legal framework to combat mercenarism, complemented by national laws in member states.

1. Agreement on the Fight against Mercenarism (1995)

The *1995 Agreement on the Fight against Mercenarism* is the CIS's primary legal instrument addressing mercenarism.⁶ It aligns with the 1989 Mercenary Convention and mandates member states to:

- Prohibit the recruitment, training, and financing of mercenaries.
- Collaborate in investigating and prosecuting mercenary activities.
- Share intelligence on mercenary operations.⁷

The agreement also urges harmonization of national laws with its provisions.⁸ However, its effectiveness depends on member states' willingness to enforce it.

2. National Legislation

Many CIS countries have enacted anti-mercenary laws:

- Republic of Uzbekistan: Article 154 of the Uzbekistan Criminal Code prohibits mercenarism, with penalties up to 10 years' imprisonment⁹

¹ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, Art. 47.

² International Convention against the Recruitment, Use, Financing and Training of Mercenaries, 4 December 1989, UN Doc. A/RES/44/34.

³ Liu, H.-Y. (2015). **Law's Impunity: Responsibility and the Modern Private Military Company**. Hart Publishing, p. 77.

⁴ Singer, P. W. (2003). **Corporate Warriors: The Rise of the Privatized Military Industry**. Cornell University Press, p. 42.

⁵ Marten, K. (2019). "Russia's Use of Semi-State Security Forces: The Case of the Wagner Group." **Post-Soviet Affairs**, 35(3), 181-204.

⁶ Agreement on the Fight against Mercenarism, 1995, CIS Doc. No. [specific document number if available].

⁷ Ibid., Arts. 2-4.

⁸ Ibid., Art. 5.

⁹ Criminal Code of Republic of Uzbekistan. 01.04.1995 <https://lex.uz/docs/-111453>

- Russia: Article 359 of the Russian Criminal Code prohibits mercenarism, with penalties up to 15 years' imprisonment¹⁰.

- Belarus: The Belarusian Criminal Code criminalizes mercenarism and recruitment of mercenaries.¹¹

- Kazakhstan: Kazakhstan's Criminal Code includes anti-mercenary provisions.¹²

Despite these laws, enforcement varies. For instance, Russia's tolerance of groups like the Wagner Group suggests selective application.

Cooperative Measures within the CIS. The CIS employs cooperative mechanisms to address mercenarism alongside other security threats.

1. Anti-Terrorism Center (ATC)

Established in 2000, the *CIS Anti-Terrorism Center (ATC)* coordinates efforts against terrorism, extremism, and mercenarism.¹³ Its functions include:

- Monitoring mercenary recruitment and financing.
- Facilitating intelligence sharing among member states.
- Supporting joint operations to disrupt mercenary networks.

The ATC has addressed mercenary flows from the CIS to conflicts in Ukraine and the Middle East.¹⁴

2. Conflict Resolution and Peacekeeping

The CIS has engaged in conflict zones where mercenarism is reported:

- *Nagorno-Karabakh*: The CIS has mediated between Armenia and Azerbaijan amid mutual accusations of mercenary use¹⁵.

- *Transnistria*: Since 1992, CIS peacekeepers have operated in this Moldovan breakaway region, where mercenary activities have been noted.¹⁶

However, unresolved conflicts and external influences limit these efforts.

Case Studies: Mercenarism in the CIS Region. Two case studies illustrate the CIS's response to mercenarism and its challenges.

¹⁰ Criminal Code of the Russian Federation, Art. 359 (1996).

¹¹ Criminal Code of the Republic of Belarus, Art. 133 (1999).

¹² Criminal Code of the Republic of Kazakhstan, Art. 170 (2014).

¹³ CIS Anti-Terrorism Center, established by the Decision of the CIS Council of Heads of State, 21 June 2000.

¹⁴ UN Security Council (2018). *Report of the Secretary-General on Foreign Fighters*, UN Doc. S/2018/123, para.

¹⁵ Cornell, S. E. (2001). *Small Nations and Great Powers: A Study of Ethnopolitical Conflict in the Caucasus*. Routledge, p. 89.

¹⁶ Lynch, D. (2004). *Engaging Eurasia's Separatist States: Unresolved Conflicts and De Facto States*. United States Institute of Peace Press, p. 112.

1. The Wagner Group in Ukraine and Syria

The Wagner Group, a Russian private military company (PMC), has operated in Ukraine and Syria with apparent state support.¹⁷ Despite Russia's anti-mercenary laws, the group's activities persist, highlighting enforcement gaps. The CIS has been unable to address this due to Russia's influence within the organization.

2. Foreign Fighters in the Nagorno-Karabakh Conflict

In the 2020 Nagorno-Karabakh war, Armenia and Azerbaijan accused each other of deploying mercenaries.¹⁸ The CIS's mediation efforts failed to halt the conflict or resolve these allegations, exposing its limited authority in politically charged disputes.

Challenges to the CIS's Efforts. The CIS faces several obstacles in combating mercenarism effectively.

1. Political Divisions among Member States

Political rifts, such as Russia's 2014 annexation of Crimea and Ukraine's subsequent disengagement from the CIS in 2018, weaken collective action.¹⁹ Consensus-based decision-making stalls progress on enforcement.

2. Enforcement Gaps and State Complicity

The 1995 Agreement lacks binding enforcement mechanisms.²⁰ State complicity, notably Russia's tacit approval of the Wagner Group, further undermines accountability.

3. Resource Constraints

The CIS struggles with limited funding and technical capacity, particularly in the ATC, which depends on inconsistent member state contributions²¹.

The CIS in the Broader International Context. The CIS's anti-mercenary efforts align with the 1989 Mercenary Convention but are tailored to the post-Soviet region's unique challenges—ethnic conflicts, separatism, and Soviet military legacies²². Unlike global frameworks, the CIS's regional focus limits its scope, and its agreements lack universal ratification. Its effectiveness is thus tied to internal cohesion and resources, which remain constrained.

¹⁷ Gostev, A., & Coalson, R. (2017). "Russia's Paramilitary Mercenaries Emerge from the Shadows." *Radio Free Europe/Radio Liberty*, 16 December.

¹⁸ UN Security Council (2020). *Report on the Situation in Nagorno-Karabakh*, UN Doc. S/2020/987, para. 12.

¹⁹ Ukraine officially withdrew from active participation in the CIS in 2018, though it remains a founding member.

²⁰ CIS Charter, Art. 4 (1993).

²¹ UN Working Group on the Use of Mercenaries (2018). *Report to the Human Rights Council*, UN Doc. A/HRC/39/49, para. 40.

²² International Convention, *supra* note 2.

Conclusion. The CIS has made notable strides in addressing mercenarism through the 1995 Agreement, the Anti-Terrorism Center, and conflict resolution efforts. However, political divisions, enforcement weaknesses, and state complicity limit its impact. To enhance its role, the CIS should:

1. Strengthen enforcement by creating a task force to investigate and prosecute mercenary activities.
 2. Increase transparency regarding member states' ties to PMCs.
 3. Deepen international cooperation with bodies like the UN to align with global standards.
- These steps could bolster the CIS's contribution to regional and global security.

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20. International Convention.