The International Regulation of Private Security Providers – a Brief Analysis

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1. INTRODUCTIONS

“Mercenaries and auxiliaries are useless and dangerous; and if one holds his state based on these arms, he will stand neither firm nor safe; for they are disunited, ambitious and without discipline, unfaithful, valiant before friends, cowardly before enemies…”¹ – writes Machiavelli in his groundbreaking work, The Prince, giving substratum to numerous thinkers of contemporary international literature, who are concerned with the outsourcing of military and security activities.² However, reality requires unfolding another side of the question, namely that private security providers do not follow the heritage of mercenaries. By national financing, they end such conflicts that must not unfold.³ To be faced with this, the present study is intended to lay down that the private military and security contractors (hereinafter: private security providers) shall not be considered in the terms of public international law, as mercenaries because they only meet the definition’s – which is hard law in the

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context of international treaties—a conjunctive conditions a few times. So they are not mercenaries in terms of public international law but Machiavelli’s thoughts could be word-paint in connection with private security providers.

The last decades have seen an enormous explosion in the use of private security providers by governments, industry, the United Nations and humanitarian organizations. Meanwhile, the

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accountability of these companies and their personnel – not to mention states’ responsibility – for violations of human rights, such as the Blackwater massacre in Nisour Square and the torture of detainees in Abu Ghraib have not kept pace. This clearly shows that this subject is critical and problematical in various relations.

Let us not forget that the claim to legitimate violence has long been understood to be the exclusive domain of states, as the German sociologist, philosopher, and political economist, Max Weber defined the state as an entity which successfully claims the “monopoly of the legitimate use of physical force within a given territory”. Mercenaries and private security companies challenge this neat schema, a challenge that has achieved greater significance due to the rise in the usage of private forces following the end of Cold War.

Taking the abovementioned phenomena into consideration, this study briefly analyses the existing but deficient international regulation of private security providers (2. Regulations of public international law – hard law) and the increasing non-binding regulations (3. “Regulations” of international soft law). The international community to protect human rights should regulate this area of warfare not only at the field of soft law but at the field of public international law, as well as at the field of domestic law. This

paper indicates the most important parts of the potential international regulation (4. Back to public international law).

2. REGULATIONS OF PUBLIC INTERNATIONAL LAW – HARD LAW

Some researchers suggested that private security providers function in the "grey area" of public international law.\(^{11}\) Under "grey area" they meant that private security providers' operation is partly regulated and partly they operate freely. This conclusion is simply false if we systematically analyse the regulations of public international law. The regulation of private military providers rests on two pillars: a.) international human rights law and b.) international humanitarian law. International human rights law and international humanitarian law (hereinafter: IHL) are two distinct but complementary bodies of international law. IHL is applied in armed conflicts, while human rights law is applied at all times, either in times of peace or war.

Obviously, there is no – at the present – specific international legal regime for the regulation of private security providers. Thus, when considering existing regulations of public international law, the following distinction should be drawn. "On the one hand, it has to be taken into account to what extent the current international legal regime contains principles and rules that may directly or indirectly affect the use of private military companies in certain cases. Only then, on the other hand, after having ascertained existing standards, can the development and enhancement of these legal regimes be tackled successfully, not only on international level but also by

incorporating general international legal standards into more detailed national legislation."^{12}

With no claim of being exhaustive, some of the most important international regulations are emphasized in detail, which can refer to private security providers.

First of all, at the field of international human rights, the Universal Declaration of Human Rights (hereinafter: UDHR) shall be firstly highlighted. UDHR, which was adopted by the UN General Assembly on 10 December 1948,^{13} is generally and widely considered to be the foundation of international human rights law. Though it seems non-binding because it was adopted by a General Assembly resolution, the vast majority of the UDHR’s articles have customary law effect, and that is the reason it is often referenced as the authoritative legal source and a constraint on private behaviour. This argumentation closely interlinks a number of articles relevant to private security services, including Article 3 (right to life), Article 5 (prohibition on torture), Article 7 (equal protection under the law), Article 9 (prohibition on arbitrary arrest and detention), Article 10 (fair and public hearing) and Article 11 (1) (presumption of innocence), as well.

The International Covenant on Civil and Political Rights^{14} (hereinafter: ICCPR),^{15} commits signatory states to respect the classical civil and political rights of individuals. These classical rights include the right to life (Art. 6.), prohibition of torture or cruel, inhuman or degrading treatment or punishment (Art. 7) right to liberty and security (Art. 9.) and equality before courts and tribunals (Art. 14.). These rights could be violated by any agents or company employees providing military or security services, including private security providers. The Optional Protocol to ICCPR, also adopted in

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^{13} UN Resolution A/RES/217 (III).
^{14} Adopted in 1966 and entered into force on 23 March 1976.
^{15} International Covenant on Civil and Political Rights, New York, 16 December 1966, UN Reg. No. 14668.
1966, sets up systems for the Human Rights Committee to receive and consider claims from individuals who may be victims of human rights violations by any signatory states. In connection with private security providers, the Human Rights Committee expressed that “the State is, thus, responsible for ensuring that delegated activities are carried out in full conformity with its international obligations, particularly human rights obligations.”

Some international human law treaties on special regulatory areas should be mentioned, while the international regulation of private military providers shall be analysed. The *Convention Against Torture* (hereinafter: CAT),\(^{17}\) prohibits the use of torture or any other inhuman or degrading treatment in attempting to obtain information from a suspect. According to Art. 2. of CAT, each State Party shall take effective *legislative, administrative, judicial* or other measures to prevent acts of torture in any territory under its jurisdiction, so CAT demands national regulation. It is one of the most important declarations to be observed by military and security officials in the exercise of their duty and accountability. CAT established the *Committee Against Torture*, which can consider individual complaints and complaints about torture from one state about another. Just to give an example regarding the role of the Committee, it investigated the torture of detainees in Abu Ghraib,\(^{18}\) which was also subject to investigation and judicial procedure in the United States. Finally, the study mentions the *International Convention for the Protection of All Persons from Enforced Disappearance*

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\(^{17}\) Adopted in 1984, entered into force in 1987.

(hereinafter: Convention),\(^{19}\) which was adopted both by the Human Rights Council and the UN General Assembly by consensus in 2006 and entered into force in December 2010. According to Art. 1. of the Convention, no one shall be subjected to enforced disappearance. Thus, the Convention identifies enforced disappearance as a self-standing human rights violation, prohibits secret detention and establishes the rights of families to get information about what has happened to their relatives and about the location of their relatives who have been detained. States being part of the Convention must incorporate a specific crime of enforced disappearance into their national laws, investigate complaints and reports of enforced disappearance and bring those responsible to justice.\(^{20}\)

*International humanitarian law* – as the other pillar of international regulation of private security providers – is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflicts. The Hague Conventions of 1907 were among the first formal statements of laws of war and war crimes. The *Hague Convention on Neutral Powers*\(^{21}\) restricts neutral states from providing either direct or indirect assistance to warring states; in particular, belligerents cannot move troops or convoys or either munitions of war or supplies across the territory of a neutral state (Art. 2.), neither corps of combatants can be formed nor recruiting agencies can be opened in the territory of a neutral state (Art. 4.). In this context, the term ‘combatants’ does not have the same meaning as in – later mentioned – Geneva Conventions of 1949. It is a much broader term; therefore, this provision can also apply for the case of

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\(^{20}\) See http://psm.du.edu/international_regulation/generally_applicable_international_law.html [cit. 2014-03-12].

private security providers'. In accordance with Art. 5., neutral states are obliged to prevent and punish "acts in violation of its neutrality unless the said acts have been committed on its own territory". According to Art. 6., neutral states can only escape from the responsibility if people from their territory are "crossing the frontier separately to offer their services to one of the belligerents." It has been suggested that the Hague Convention thus prevents states from allowing private military and security firms to incorporate or operate from their territory.

The core regulation of private military providers in the field of IHL is based on the Geneva Conventions of 1949 and the two Additional Protocols of 1977. The Geneva Conventions separate combatants from civilians and protects those who do not or no longer directly participate in hostilities: civilians and people taken captive in military conflicts (prisoners of war). The debate is going on in literature whether private military providers are lawful or unlawful combatants (mercenaries) or whether they are civilians under the Geneva Conventions. The question cannot be satisfactorily answered and this ambiguous situation shall not allowable in armed conflicts. Today, most parts of the Geneva Conventions and their Additional Protocols are regarded as customary international law binding on all states and all parties of conflicts, including private security providers operating in the conflict zone.

The International Convention against the Recruitment, Use, Financing and Training of Mercenaries was adopted by UN General Assembly in 1989 and came into force in 2001. This Convention tries to give a broader concept of mercenaries than the Additional

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Protocol I., the Convention criminalizes their use and prohibits states from recruiting, using, financing or training mercenaries. The Convention is not self-executing and requires transformation into national legislation.

Finally, even though it is not an international treaty, the Draft Articles of State Responsibility shall be emphasized which were adopted by the International Law Commission (ILC) in 2001. According to Art. 5. of the Draft Articles, “the conduct of a person or entity which is not an organ of the State under article 4 but which is empowered by the law of that State to exercise element of the governmental authority shall be considered an act of the State under international law, provided the person or entity is acting in that capacity in the particular instance.” Thus, if a State avails services of private security providers, it is responsible for the acts that private security providers commit.

To summarize the abovementioned treaties and draft articles, we cannot accept the theory that private security providers operate in a grey zone but it is true that private security providers’ operation zone is not clearly defined by international legal norms. The regulations of international human law and international humanitarian law exist and also refer to private security providers. The main problem is that in default of a specific legal regime, limits and guidelines for the use of private security providers or contractors have to be deducted from the abovementioned general international treaties. Such rules are not only those that reserve certain functions explicitly for state organs but in other cases, states may have to exercise ‘due diligence’ in a way that a private security provider must be supervised by state organs. The problem is that it is up to states and their national administration to implement these general rules by adopting effective legislative and administrative measures that govern the use of private security providers in detail. In spite of the necessity of national regulation, we can say that it barely exists. As Maidment says, states have to face with the major risks of inadequacy, inapplicability and ineffectiveness of the domestic regulation of the private security providers.

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24 KEES: *op. cit.* 201.
industry. Since private security providers are much more complicated than a simple armament sale, they should have a more detailed process for the approval of their contracts.

The Human Rights Council, which is the successor of the UN Commission on Human Rights, established in 2006, realized this problem and in 2010 it adopted resolution 15/26 by which it decided “to establish an open-ended intergovernmental working group with the mandate to consider the possibility of elaborating an international regulatory framework, including, inter alia, the option of elaborating a legally binding instrument on the regulation, monitoring and oversight of the activities of private military and security companies, including their accountability, taking into consideration the principles, main elements and draft text as proposed by the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.”

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26 BEUTEL: op. cit. 42.
27 Open-ended intergovernmental working group to consider the possibility of elaborating an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies. A/HRC/RES/15/26.
28 The Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of peoples to self-determination (hereinafter: Working Group) was established in July 2005, pursuant to Commission on Human Rights resolution 2005/2. It succeeded the mandate of the Special Rapporteur on the use of mercenaries, which had been in existence since 1987 and was serviced by Mr. Enrique Bernales Ballesteros (Peru) from 1987 to 2004 and Ms. Shaista Shameem (Fiji).
3. "REGULATIONS" OF INTERNATIONAL SOFT LAW

As this short outline illustrates, international human law and IHL provides a regulatory framework for private security providers and their employees but no detailed regime exists – in public international law – which could ensure law enforcement, implementation of international law, transparency of private security providers and mostly the oversight mechanism over their operation. To face with the increase in the use of private security providers (Afghanistan, Iraq, Arab Spring, etc.), the rise of injury of rights by the operation of private security providers and the absence of detailed international regulations, in recent years, significant efforts have been taken to enhance the regulatory framework applicable to private security providers and their employees. These efforts have taken place at international, domestic, industry and company levels – leading to the emergence of a disorganized and decentralized regulatory framework. Few have sought to understand, analyse or assess the regulatory framework applicable to the private security and military industry.

In this paper, the author would like to analyse only one direction of this decentralized regulatory framework. This is a very practical process which was launched by the Swiss government and the International Committee of the Red Cross (hereinafter: ICRC) in 2006 which is called as the Swiss Initiative. The Swiss Initiative

started with the Montreux Document, continued with the International Code of Conduct for Private Security Service Providers (hereinafter: ICoC) and was completed with the establishment of the International Code of Conduct for Private Security Service Providers' Association (hereinafter: ICoCA).

3.1. The Montreux Document

The Montreux Document – as it is mentioned before – is the result of an initiative launched jointly by Switzerland and the ICRC. The drafting of the Montreux Document was based on the work of four intergovernmental meetings which took place between January 2006 and September 2008.

The Montreux Document provides the clearest statement to date legal norms and business administrative and regulatory practices that shape the relationship between states and private security providers. The Montreux Document was developed with the participation of governmental experts and representatives of civil society and the private military and security industry also consulted in it. Currently, there are 50 states that support the Montreux Document, 17 states jointly finalised the document on the occasion of a concluding
meeting in Montreux, Switzerland, on 17 September 2008. It has to be mentioned that besides states, the European Union, the Organization for Security and Co-operation in Europe and the North Atlantic Treaty Organization also joined the Montreux Document.

The preface of the Montreux Document makes it clear that certain well-established rules of international law apply to states in their relations with private military and security companies and their operation during armed conflict, in particular under IHL and human rights law. The Montreux Document recalls existing legal obligations of states and private security providers and their personnel (Part One) and provides states with good practices to promote compliance with IHL and human rights law during armed conflicts (Part Two). Furthermore, the preface suggests that the Montreux Document is not a legally binding instrument and does not affect existing obligations of states under customary international law and under international agreements. The Montreux Document should therefore not be interpreted as limiting, prejudicing or enhancing in any manner existing obligations under international law, or as creating or developing new obligations under international law.

So, the Montreux Document is built on two pillars, each with different status, sources and scope. On one hand, Part One provides a conservative statement of lex lata, so this part summarizes the pertinent international legal obligations relating to private security providers. It has a narrow scope because it refers to the operation of private security providers during armed conflicts and was drafted relying on traditional international law sources.

It is very important that the statements are drawn from various IHL and human rights agreements and customary international law. Each state is responsible for complying with the obligations it undertook pursuant to international agreements to which it is a party, subject to any reservations, understandings and declarations made as well as to

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38 Afghanistan, Angola, Australia, Austria, Canada, China, France, Germany, Iraq, Poland, Sierra Leone, South Africa, Sweden, Switzerland, United Kingdom, Ukraine and United States of America.
39 COCKAYNE: op. cit. 404-405.
customary international law. Part One ascertains the obligations of contracting states, territorial states, home states, all other states and even private security providers and their employees. On the other hand, Part Two only reflects ‘good practice’ and not law. The good practices are intended, inter alia, to assist states to implement their obligations under IHL and human rights law. It provides a non-exhaustive compendium of illustrative good practice for states discharging their existing legal obligations that is why it has a much more expansive scope.

The Parliamentary Assembly of the Council of Europe in its Recommendation 1858 (2009) recommends that the Committee of

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40 E.g. contracting states are responsible to implement their obligations under international human rights law, including by adopting such legislative and other measures as may be necessary to give to these obligations. To this end they have the obligation, in specific circumstances, to take appropriate measures to prevent, investigate and provide effective remedies for relevant misconduct of PMSC’s and their personnel.

41 E.g. territorial state have an obligation, within their power, to ensure respect for international humanitarian law by PMSC’s operating on their territory.

42 E.g. home state have an obligation to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, grave breach of the Geneva Conventions and, where applicable, Additional Protocol I, and have an obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches and bring such persons, regardless of their nationality, before their own courts.

43 E.g. all other states have an obligation, within their power, to ensure respect for international humanitarian law.

44 E.g. the status of the personnel of PMSC’s is determined by international humanitarian law, on a case by case basis, in particular according to the nature and circumstances of the functions in which they are involved.

45 E.g. determination of services, procedure for the selection and contracting of private security providers, criteria for the selection of private security providers, terms of contract, monitoring compliance and ensuring accountability.

46 COCKAYNE: op. cit. 405.
Ministers, on behalf of the Council of Europe, shall support the Montreux Document, which sums up legal obligations under existing international law and best practices related to PMSCs’ activities and calls on member states that have not already done so, to endorse it.47

The Working Group has welcomed the effort to clarify states’ commitments in international law and good practices related to operations of private security providers and considered the Montreux Document useful in recalling existing obligations of states under IHL and international human rights law.48 The Working Group believes, however, that the Montreux Document failed to address the regulatory gap in the responsibility of states with respect to the conduct of private security providers and their employees. One of the problems is that the initiative only represents part of the wide spectrum of countries and their approaches. The Swiss Initiative has not been as broad a consultative process as it is required under the UN system. For example, states form Latin America and the Caribbean region did not participate in work and the unbalanced representation of Western Group States denotes the heavy involvement of countries where most of the security industry originates and operates form. Neither UN departments, nor the Working Group took part in the initiative. Another problem is that the Montreux Document places heavier burden of responsibility on “territorial states” (states where private security providers operate) than on “contracting states” or “home states” from where these companies originate from or where they operate. Furthermore, there are no provisions in the Montreux Document referring to that states should strengthen government standards for procurement,

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contracting and management of private security providers and security industry backed by an effective reporting mechanism.49

Not just the Working Group but key NGO’s, who were involved in the process, raised certain concerns. E.g. the Amnesty International stated that some relevant and well-established propositions of international human rights law were not fully reflected in the Montreux Document, including states’ obligation to protect and apply the standards of ‘due diligence’.50

Despite of the critics, by interpreting and applying existing international legal obligations to private security providers, the Montreux Document began to extract them from their not clearly defined operation zone and served as an exemplar for the interpretation of other existing laws.

3.2. ICoC and ICoCA

In response to industry demands – building on the foundation of the Montreux Document – to develop international standards for private security providers, the Swiss government and the ICRC launched another initiative to develop an International Code of Conduct for Private Security Service Providers which articulates clear standards for private security providers based on international human rights law and IHL, as well as to develop an independent oversight and compliance mechanism to provide effective sanctions when they breach ICoC.51 The ICoC was signed by 58 private security providers


from fifteen countries at a signing ceremony in Geneva on 9 November 2010. By signing it, companies publicly affirmed their responsibility to respect the human rights of, and to fulfil humanitarian responsibilities towards all those affected by their business activities. According to the Preamble, signature of the ICoC is the first step in a process towards full compliance. Signatory companies need to: (1) establish and/or demonstrate internal processes to meet the requirements of the Code’s principles and standards deriving from the Code; and (2) once the governance and oversight mechanism is established, become certified by and submit to ongoing independent auditing and verification by that mechanism. Companies having signed it undertake to be transparent regarding their progress towards implementing the Code’s principles and the standards deriving from the Code.

The ICoC sets-out human rights based principles for the responsible provision of private security services. These include rules for the use of force; detention; prohibition of torture or other cruel or degrading treatment or punishment; human trafficking and other human rights abuses; prohibition of slavery and forced labour; prohibition on the worst forms of child labour; discrimination etc. and specific commitments regarding the management and governance of companies, including how they select and vet personnel and subcontractors; training of personnel; manage weapons and handle grievances internally.

ICoC has proved to be popular in the industry and on 10 April 2014, 708 companies have signed onto it.\textsuperscript{52} While the number of the signatory companies in itself a significant accomplishment, the process of translating the ICoC’s principles into enforceable standards has just begun. From the beginning, the ICoC process foresaw the establishment of an independent mechanism for governance and oversight.

\textsuperscript{52} See Figure 2, and see The International Code of Conduct for Private Security Service Providers Signatory Companies. Available at: http://www.icoc-psp.org/uploads/Signatory_Companies_-_September_2013_-_Composite_List-1.pdf [cit. 2014-03-12].
To have power in the “norms” of ICoC, at September 2013, the International Code of Conduct for Private Security Service Providers’ Association was established. The purpose of this Association is to promote, govern and oversee the implementation of ICoC and to promote the responsible provision of security services and respect for human rights and national and international law in accordance with ICoC.

Membership in ICoCA shall be divided into three membership categories reflecting stakeholder pillars: Private Security Companies and Private Security Service Providers pillar, civil society organization pillar and the government pillar. Private security providers shall be eligible for membership upon certification under ICoCA’s treaty Article 11.

According to Article 11, ICoCA shall be responsible for certifying under ICoC that a company’s systems and policies meet the Code’s principles and the standards deriving from the Code and that a company is undergoing monitoring, auditing and verification, including in the field. ICoCA shall be responsible for exercising oversight of Member companies’ performance under the ICoC, including thorough external monitoring, reporting and a process to address alleged violations of the code. If ICoCA determines that corrective action is required to remedy non-compliance with the ICoC, ICoCA shall request a Member company to take corrective action within a specific time period. Should a Member company fail to take reasonable corrective action within the period specified by ICoCA, or fail to act in good faith in accordance with these Articles, then ICoCA shall initiate suspension proceedings in accordance with these Articles. In the compliance process, if, after further consultation with the complainant and the Member company, ICoCA considers that the Member company has failed to take reasonable corrective action within a specified period or cooperate in good faith

53 The ICoCA comprises 6 states (Australia, Norway, Sweden, Switzerland, United Kingdom and United States of America), 150 companies, and 13 civil society organizations.
in accordance with this Article, it shall take action, which may include suspension or termination of membership.

If we analyse international processes – which were mainly influenced by the Swiss Initiative – we can say that ICoC is a very successful attempt regarding the regulation of private security providers. Much more successful than UN’s draft regulation,\textsuperscript{54} which contains very far-reaching obligations and restrictions for states that exceed current standards under international law. “It seeks to extend existing legal obligations and to increase restrictions. As far as it restricts the use of private contractors, this approach seems to be in conflict with the actual practice and the evident opinion of a large number of states regarding that the employment of contractors is generally a sovereign decision of the state.”\textsuperscript{55}

Even if the legal nature of ICoC is only considered to be an international soft law, major clients of private security contractors have already begun to reference the Code in their contracts. The UN Security Management System’s ‘Guidelines on the Use of Armed Security Services from Private Security Companies’\textsuperscript{56} makes mandatory requirement for possible selection regarding that private security providers must be member companies in ICoC. States are also beginning to incorporate ICoC into national legislation. The Swiss Parliament considered a draft Federal Act on Private Security Services Provided Abroad (hereinafter: Draft Act) in 2013.\textsuperscript{57} Art. 7 of the Draft Act regulate the adherence to the International Code of Conduct for Private Security Service Providers. This Article says that companies shall have an obligation to become signatories to ICoC.

\textsuperscript{54} Draft of a possible Convention on Private Military and Security Companies (PMSCs) for consideration and action by the Human Rights Council. UN Doc. A/HRC/WG.10/1/2.
\textsuperscript{55} KEES: op. cit. 211.
\textsuperscript{57} See http://www.ejpd.admin.ch/content/dam/data/sicherheit/gesetzgebung/sicherheitsfirmen/entw-e.pdf [cit. 2014-03-12].
Furthermore, according to Art. 14, the competent authority shall prohibit in full or in part the exercise of an activity by a company that does not comply with the provisions of ICoC. Recently, also the US Department of State indicated that “(a)s long as the ICoC process moves forward as expected and the association attracts significant industry participation, the Bureau of Diplomatic Security (DS) anticipates incorporating membership in the ICoC Association as a requirement in the bidding process for the successor contract to the Worldwide Protective Services (WPS) program.”

In light of these, the present study must conclude that legally non-binding nature of ICoC is starting to change and, as its rules become a reference point to the states, it evolves into harder international law.

4. CONCLUSIONS

According to Buzatu and Buckland, “(i)n times of increasing security threats – both public and private – which affect states and a multitude of private actors as well as decreasing state capacity to meet those threats, the trends to use private military and security companies will likely continue to increase and shape international security. In defiance of the traditional paradigm of state-centric security, these private security actors pose real challenges to effective regulation of their services, particularly accountability for violations of human rights and remedies to victims.”

While the Montreux Document, the ICoC and the ICoCA are important initiatives, these do not address the key issue of accountability and responsibility. As a non-governmental instrument which is not legally-binding and is not backed by State criminal and administrative sanctions, it cannot address the essential human rights issues of accountability for private security providers and their employees who commit human rights and IHL abuses.

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58 See http://www.state.gov/r/pa/prs/ps/2013/08/213212.htm [cit. 2014-03-12].
59 Buzatu – Buckland: op. cit. 24.
As we could see, the legally non-binding nature of ICoC is starting to change and evolve into harder international law. In my interpretation, the regulations of ICoC – in the long term – could transfer into new international regulations, most likely in the form of a new international convention. This future convention suggests initiatives to private security providers to formulate an industry-wide legally binding code of conduct, which would set appropriate human rights perspective, standards and guidelines, with punitive measures. According to this convention, every state must review their legal system and have to implement the conventions' regulation into their domestic law. This convention should establish an agency, which role would be to monitor private security contractors’ operation and the conventions’ implementation in domestic law, also its role would be to set up an international register. It would be important to consider that the abuses of IHL and international human law by private security providers shall be placed under the jurisdiction of International Criminal Court.

Unfortunately, reality suggests another direction. In the foreseeable future the establishment of an international binding instrument that regulates the abovementioned themes in detail is unlikely. That is why the implementation and further specification of requirements imposed by international law should be achieved in domestic law, mainly regarding administrative, civil and of course, criminal law. In this context, the role of the European Union should be subject of further analyses.
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FIGURES

Figure 1. Participating States of the Montreux Document

Figure 2. Number of ICoC Signatory Company Headquarters per Country

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60 Available at: http://www.eda.admin.ch/eda/en/home/topics/intla/humlaw/pse/parsta.html [cit. 2014-03-12].
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