

Mandates of 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; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacities as 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; Working Group on the issue of human rights and transnational corporations and other business enterprises; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 42/9, 44/15, 45/3, 44/5 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the involvement of Russian private military and security personnel in the context of the ongoing hostilities in the Central African Republic in support of the Central African Armed Forces and their alleged involvement in international humanitarian law and human rights abuses including extrajudicial killings, enforced disappearances and torture, some of which may amount to international crimes.**

According to the information received:

On 21 August 2018, the Ministry of Defense of the Russian Federation and the Ministry of Defense of the Central African Republic signed a bilateral agreement on military cooperation. Since that date, there appears to be an increasing presence of private military and security contractors with ties to the Russian Federation in the Central African Republic.

In particular, three interconnected actors are of concern to the Working Group. Firstly, Sewa Security Services which is registered in the Central African Republic and owned by citizens of the Russian Federation. Secondly, Lobaye Invest SARLU which is also registered in the Central African Republic and is owned by the Russian legal entity M FINANCE LLC. Thirdly, a Russian-based organization popularly known as the Wagner Group, which does not seem to have a legal existence, while operating in several countries across the globe. This web of enterprises shares, to different degrees, management and ownership structures, as well as personnel, and identifiers such as phone numbers, addresses and emails. All three are reportedly linked to a Russian citizen, the identity of whom is known to the Working Group. Allegedly, these actors have contracted dozens of mercenaries from Syria, Libya and other places, in addition to their Russian personnel.

These entities (often referred to generically as the Wagner Group) specifically appear to be providing training and certification to the Central African Armed Forces (FACA), which allegedly relies on them to sustain its military capacities and operations, as well as protecting officials and mining facilities. Reports suggest that Lobaye Invest is financing the training and Russian personnel are directly conducting it. The military training provided includes instruction on: the advanced use of various up-to-date means of Electronic Warfare (EW); coordination of actions between land and air operations; as well as partisan/guerrilla-type subversive activities, maskirovka, sabotage, and recruitment (verbovka) of foreign agents. Further, this web of actors engage in intelligence gathering and reconnaissance, and Lobaye Invest, in particular, pursues control of mineral concessions. Some of the personnel recruited by these companies seems to fall within the international definitions of mercenaries.

It appears that after first attacks of the *Coalition des Patriotes pour le Changement* (CPC) in December 2020, “Russian mercenaries”, as these contractors are commonly described, were deployed to almost all front lines in the Central African Republic.

As a result of their offensive operations, most of the cities and localities previously occupied by the *Coalition des Patriotes pour le Changement* (CPC) were liberated in January 2021. During and after those operations, reports of violations and abuses of international human rights law and international humanitarian law by “Russian mercenaries” were received from different sources:

Indiscriminate targeting and civilian casualties:

Indiscriminate targeting by Russian private military security officers causing civilian casualties were reported on the 28th of December 2020 in Grimani (five civilians), 10 January 2021 near Boali area (four civilians) and on the 15th of February 2021 (16 civilians).

Between 15 and 16 February 2021, government forces and their allies including “Russian mercenaries” launched a military operation in Bambari city (Ouham prefecture) to dislodge *Coalition des Patriotes pour le Changement* (CPC) rebels. After the operation, different testimonies confirmed the deaths of three civilians including a 13-year-old girl and 26 people wounded. “Russian mercenaries” were accused of using excessive force and shelling protected sites such as a mosque and IDP camps.

Enforced disappearances:

“Russian mercenaries” have allegedly been involved in enforced disappearances between the PK12 and PK16 areas, and in the 4th and the 8th districts since the end of December 2020. It is further reported that civilians caught in the middle

of hostilities have been arrested by Russian personnel and presented in the national broadcast TV station as rebels.

Torture and Mass Executions:

It is further reported that torture and mass executions of prisoners took place end of December 2020, carried out by “Russian mercenaries” in the 4th District/Landja-Mboko.

Rape, Sexual and Gender-based Violence

As the Working Group has noted previously, the unregulated deployment of private military and security contractors and mercenary-related actors can heighten the risk of numerous human rights violations, including in particular, rape and other forms of sexual violence.

Looting of private and public properties

There have been allegations of looting of private and public properties by alleged “Russian mercenaries” in Lobaye, Ombera M’Poko, Nana Mambere and Ouam prefectures. It is reported that “Russian mercenaries” systematically looted every town, village and marketplaces they liberated from the *Coalition des Patriotes pour le Changement* (CPC). Motorbikes, mobile phones, money and other valuable items were systematically taken away from local population in Bossembele and Yaloke towns (Ombera M’Poko), Boda and surrounding villages and markets (Lobaye). A local politician and candidate in legislative elections in Bossembele had his house occupied on 4 February 2021 by Russians for days and his personal belongings including his suitcase taken away.

Occupation of schools and humanitarian premises

At least two schools in Lobaye remain occupied by FACA and “Russian mercenaries”. A humanitarian compound belonging to IOM (International Organization of Migration) has been transformed into a military base in Boda town of Lobaye prefecture.

Lack of transparency concerning the status, rules of engagement, roles and command and control mechanisms

In addition to providing training and logistical support, private contractors were seen participating directly in hostilities on several occasions, and even sustaining visible body harm, being wounded or killed. In addition, it is reported that private military and security personnel involved in hostilities do not carry clear military identifications, making it extremely challenging for civilians to identify them and distinguish them from regular armed forces, to protect themselves, and to hold them accountable.

Furthermore, it has been reported by several sources that private military and security contractors, operating both jointly with and for the FACA, have been participating in military meetings and operations. Additionally, reports suggest

that there is interoperability between the private contractors and the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), and that they are included in military operations alongside the peacekeeping personnel. Such usage blurs the lines between civil-military activities and peacekeeping and exacerbates the risks of human rights violations.

Since 2018, the Working Group has been monitoring the situation in the Central African Republic with regards to mercenaries and the Wagner group with great concern. While we do not wish to prejudge the accuracy of these allegations, we are gravely concerned at the alleged involvement of Russian private military and security personnel in the context of the ongoing hostilities in the Central African Republic in support of the Central African Armed Forces and their alleged involvement in human rights abuses including extrajudicial killings, enforced disappearances and torture.

We wish to refer to the global study of national regulations of private military and security companies published by the Working Group (A/HRC/36/47) and the Working Group's report on the evolving forms, trends and manifestations of mercenaries and mercenary-related activities (A/75/259), which pointed to the difficulties in preventing and holding foreign private military and security personnel accountable for their actions, including in situations of armed conflict.

This is exacerbated by the lack of transparency concerning the status, rules of engagement, roles and command and control mechanisms exercised over the above-mentioned actors as well as the precise nature of their activities in the Central African Republic.

Further accountability concerns arise due to the lack of clarity over how, where and under what rules private military and security companies, such as the Wagner Group, may be registered. In this respect, it appears that the provision of private military services is not regulated in the law of the Russian Federation, whereas mercenarism is prohibited by article 359 of the Criminal Code. We note that, in response to a question at a press conference in December 2018, the President of the Russian Federation stated that private military and security contractors, such as the Wagner Group, must respect domestic law.

In addition, we are concerned that the precise nature and affiliation of the private military personnel in question may be deliberately opaque, in part as a means to avoid qualification as mercenaries and therefore evade related obligations under international law.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please also provide information on any bilateral agreements on the use of private military and security personnel between your Excellency's Government and other governments and/or legal entities and/or enterprises.
3. Please provide information regarding Russian citizens and companies providing private military and security services in the Central African Republic, notably with regard to the nature of their activities, their owners, control and personnel as well as their clients, and the modes of recruitment, contracting and how they are compensated for their services. Please also provide information on how the companies involved are linked to one another.
4. Please explain the domestic legal framework and related regulation and oversight mechanisms applicable to private military services provided by Russian citizens and/or companies, particularly in relation to the use of force and the provision of private military services abroad and in conflict-affected areas.
5. Please highlight the steps that your Excellency's Government has taken, or is considering to take, to protect against human rights abuses by Russian private military and security companies, ensuring those companies domiciled in Your Excellency's government's territory and/or jurisdiction conduct effective human rights due diligence to identify, prevent, mitigate and account for how they address their impacts on human rights throughout their operations, including in conflict-affected areas, as set forth by the UN Guiding Principles on Business and Human Rights.
5. Please describe the guidance, if any, that Your Excellency's Government has provided to Russian private military and security companies on how to respect human rights throughout their operations (including abroad), with a special view to conflict-affected areas in line with the UN Guiding Principles on Business and Human rights. This guidance may include measures, inter alia, on how to conduct human rights due diligence, consulting meaningfully potentially affected stakeholders, and how to remediate any negative impacts.
6. Please indicate the steps that your Excellency's Government has taken, or is considering to take, to ensure effective access to domestic judicial mechanisms for victims of above-mentioned alleged abuses by Russian private military personnel, including for overseas victims of serious human abuses such as those alleged in the present letter.
7. Please indicate the steps that your Excellency's Government has taken, or is considering to take to ensure that private military companies

domiciled in its territory and/or jurisdiction establish effective operational-level grievance mechanisms, or cooperate with legitimate remedial processes, to address adverse human rights impacts that they have caused or contributed to.

8. Please indicate whether the above-mentioned alleged abuses by Russian private military and security personnel have been or are the subject of an investigation and/or prosecution by the relevant authorities of the Russian Federation and provide information about their outcomes. Please provide detailed information on potential sanctions and measures for any human rights abuses, if occurred.
9. Please provide detailed information about “ChVK Wagner” (“Частная Военная Компания Вагнера” also referred to as Wagner Group), its registration status in Russia and its relationship, if any, with the authorities of the Russian Federation. Please provide the same information about Sewa Security Services and Lobaye Invest SARLU.

This communication and any response received from your Excellency’s Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency’s Government’s to clarify the issue/s in question.

Please note that letters expressing similar concerns were sent to the Government of the Central African Republic and to the extent possible, to the enterprises concerned.

Please accept, Excellency, the assurances of our highest consideration.

Jelena Aparac

Chair-Rapporteur of 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

Dante Pesce

Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises

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punishment

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We wish to refer to the inherent right to life and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, as enshrined in article 3 and 5 of the Universal Declaration of Human Rights (UDHR) and in article 6 and 7 of the ICCPR, the latter ratified by the Russian Federation in 1973, as well as to common article 3(1)(a) of the Geneva Conventions that categorically prohibits, "violence to life and persons in particular murder of all kinds, mutilation, cruel treatment and torture", against those not taking active part in the hostilities. Both the inherent right to life and the principle of distinction between combatants and those not taking direct part in hostilities are rules recognized as part of customary international law and are universally binding at all times.

Both international humanitarian law and human rights law require States to carry out thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions, and war crimes committed by their nationals or armed forces, or on their territory by a foreign State, or over which they have jurisdiction. Furthermore, States must take appropriate measures to bring perpetrators to justice and to provide effective remedies to victims. The right to an effective remedy is enshrined in the UDHR (article 8) and the ICCPR (article 2(3)). We wish to also refer to the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (General Assembly Resolution 60/147, Chapter II) and the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (ECOSOC resolution 1989/65 of 24 May 1989), in particular principle 9, that there must be thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions.

We would like to further recall that it is now widely accepted that States' obligations to protect and fulfil human rights, such as the right to life, extend beyond their own agents and also encompass protecting against human rights abuses by third parties, including private actors, and to take positive steps to fulfil human rights. This includes taking appropriate measures to prevent, punish, investigate and bring perpetrators to justice and redress harm caused by both State and private actors (CCPR/C/21/Rev.1/Add.13, para. 8).

Specifically, with respect to the right to life, States are required to effectively regulate, monitor and control the conduct of private individuals or entities empowered or authorized to employ force with potentially lethal consequences, as recalled by the Human Rights Committee (CCPR/C/GC/36, para 15). For example, States are responsible to take adequate measures to ensure that, "persons who were involved or are currently involved in serious human rights violations or abuses are excluded from private security entities empowered or authorized to employ force" (*Ibid*). The Human

Rights Committee also recalled the obligation to take adequate measures to “prevent, investigate, punish and remedy arbitrary deprivation of life by private entities, such as [...] private security firms” (para 21).

The preventive obligations of States with respect to the right to life are synergetic with the obligation States have to respect and ensure respect of the Geneva Conventions as provided by their common Article 1. To this end, States are required to adopt all measures necessary to ensure respect for the Geneva Conventions not only by their organs but also by private individuals within their jurisdictions as well as other States and non-State parties, as outlined in the ICRC Commentary on the First Geneva Convention (2016).

The Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict recalls existing legal obligations of States and private military and security companies and their personnel and draws on various international humanitarian and human rights agreements and customary international laws, including the references above. In particular, States where a private military and security company is registered or incorporated, or where a private military and security company has its principal place of management, as well as States that directly contract for the services of private military and security companies have an obligation, within their power, to ensure respect of these companies for international humanitarian law. Such States have an obligation not to encourage or assist in, and to take appropriate measures to prevent and suppress violations of international humanitarian law committed by the personnel of private military and security companies through appropriate means such as administrative or other regulatory measures as well as administrative, disciplinary or judicial sanctions, as appropriate. Moreover, States are required to enact legislation to provide effective penal sanctions, to search, and to bring before its courts persons alleged to have committed or ordered to be committed the wilful killing or wilfully causing great suffering or serious injury to body or health of a civilian.

The responsibility of States to take appropriate steps to prevent, investigate, punish and redress human rights abuses within their territory and/or jurisdiction by third parties, including business enterprises, is further reiterated by the UN Guiding Principles on Business and Human Rights (endorsed by A/HRC/RES/17/31, Guiding Principle 1). The Guiding Principles also require States to ensure that victims have access to effective remedy in instances where adverse human rights impacts linked to business activities occur. In particular, the Guiding Principles recognise the heightened risk of gross human rights violations in conflict-affected areas and require States to help ensure that business enterprises operating in those contexts are not involved with such abuses (Guiding Principle 7). In this respect, particular consideration needs to be given to the role of “home” States of transnational corporations in ensuring that businesses are not involved with human rights abuse as, in conflict-affected areas, the “host” State may be unable to adequately protect human rights due to a lack of effective control.

We wish to recall that both international humanitarian law and international human rights law continue to apply in a situation of armed conflict. In its General Comments 31 (CCPR/C/21/Rev.1/Add.13, para 11) and 36 (CCPR/C/GC/36, para. 64), the Human Rights Committee has affirmed the applicability of the International

Covenant on Civil and Political Rights (ICCPR) and international human rights law more generally to situations of armed conflict.

Finally, we wish to refer here to the definition of a mercenary in international law, notably in article 1 of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries and in article 47 of the Protocol Additional I to the Geneva Conventions. The definition contains several cumulative criteria, including inter alia: being specially recruited to fight in an armed conflict, being motivated by private gain, not being a national of a party to the conflict, and not being a member of the armed forces of a party to the conflict.

We wish to stress that the recruitment, use, financing and training of mercenaries impedes the right of peoples to self-determination and violates the purposes and principles enshrined in the Charter of the United Nations, as recalled by the Human Rights Council (A/HRC/RES/42/9). This resolution requests all States to “exercise the utmost vigilance in banning the use of private companies offering international military consultancy and security services when intervening in armed conflicts or actions to destabilize constitutional regimes” (para 5). Similarly, General Assembly resolution A/RES/74/138 of 2019, supported by 127 States including the Russian Federation, stresses concerns over the “impact of the activities of private military and security companies on the enjoyment of human rights, in particular when operating in armed conflicts” and noted that such “companies and their personnel are rarely held accountable for violations of human rights” (para 7).

We would also like to highlight the UN Guiding Principles on Business and Human Rights (A/HRC/17/31), which were unanimously endorsed by the Human Rights Council in June 2011 and which are relevant to the impact of business activities on human rights. These Guiding Principles are grounded in recognition of:

- a. “States’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms;
- b. The role of business enterprises as specialized organs or society performing specialized functions, required to comply with all applicable laws and to respect human rights;
- c. The need for rights and obligations to be matched to appropriate and effective remedies when breached.”

According to the Guiding Principles, States have a duty to protect against human rights abuses within their territory and/or jurisdiction by third parties, including business enterprises. The obligation to protect, respect, and fulfil human rights, recognized under treaty and customary law entails a duty on the part of the State not only to refrain from violating human rights, but to exercise due diligence to prevent and protect individuals from abuse committed by non-State actors (see for example Human Rights Committee, General Comment no. 31 para. 8).

It is a recognized principle that States must protect against human rights abuse by business enterprises within their territory or/and jurisdiction (including abroad). As part of their duty to protect against business-related human rights abuse, States are required

to take appropriate steps to “prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication” (Guiding Principle 1). This requires States to “state clearly that all companies domiciled within their territory and/or jurisdiction are expected to respect human rights in all their activities” (Guiding Principle 2). In addition, States should “enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights...” (Guiding Principle 3). The Guiding Principles also require States to ensure that victims have access to effective remedy in instances where adverse human rights impacts linked to business activities occur.

States may be considered to have breached their international human law obligations where they fail to take appropriate steps to prevent, investigate and redress human rights violations committed by private actors. While States generally have discretion in deciding upon these steps, they should consider the full range of permissible preventative and remedial measures.

As specified in the report of the Working Group on the issue of human rights and transnational corporations and other business enterprises to the General Assembly (A/75/212), on steps that States and business enterprises should take to prevent and address business-related human rights abuse in conflict and post-conflict affected contexts, business should exercise heightened due diligence in conflict-affected contexts because of the increased risk of being involved in serious human rights abuses. The same applies to States.