



Organisation Internationale pour les pays les moins avancés (OIPMA)  
The International Organization for the LDCs (IOLDCs)

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## POTENTIAL RISKS AND IMPACT OF THE RECRUITMENT, USE, FINANCING AND TRAINING OF MERCENARIES ON SECURITY, PEACE AND STABILITY



THE EMERGING PATTERN  
OF SYSTEMATIC TRANSFER OF MERCENARIES  
FROM SYRIA TO LIBYA

*Cover picture: Pro-Turkish Syrian fighters gather near the Turkish village of Akinci along the border with Syria on Oct. 11, 2019. BAKR ALKASEM/AFP via Getty Images.*



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### **About IOLDCs:**

IOLDCs works to present the concerns of the LDCs-based civil society organizations to the United Nations bodies and other international organizations, with respect to the International Humanitarian Law (IHL) and the International Human Rights Law (IHRL). In particular, IOLDCs aims to eliminate the constraints and obstacles caused by armed conflicts in the LDCs that severely affected development. IOLDCs is devoted to implement SDG 16 through conflict prevention, post-conflict peacebuilding and is focused on counter-terrorism and children in armed conflict. IOLDCs prioritizes the impacts of climate change and the COVID-19 on the LDCs.

### **About this report:**

This report on the recruitment, use, financing, and training of foreign mercenaries focuses on the emerging pattern of a systematic transfers of mercenaries from Syria to Libya and the potential risks and impacts of this phenomenon on regional and international security, peace and stability. The publication follows the establishment of the Independent Fact-Finding Mission on Libya in June 2020 by the Human Rights Council and is complemented with a statement delivered at the first oral update of the Fact-Finding Mission to the Council on October 5, 2020.

### **The content of the report:**

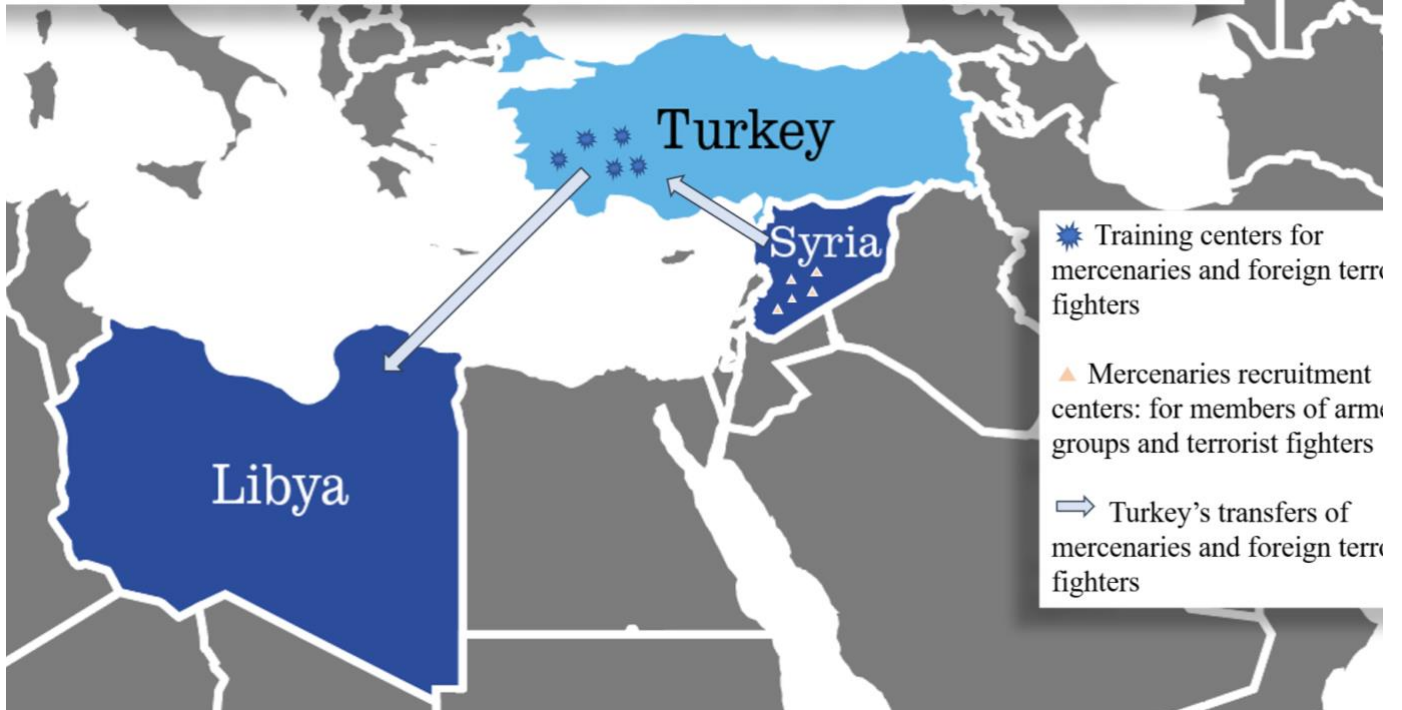
Part I introduces the root causes of the conflict in Libya caused by Muslim Brotherhood and other extremist groups, such as ISIS, Al-Qaeda, Al-Nusra, Ansar Al Sharia and others and then analyzes the background of the recruitment of mercenaries. Part II presents the evidence of the recruitment use and financing of mercenaries in Libya and analyzes each step of the process and the actors involved. Part III focuses on the impacts and risks resulting from this phenomenon on, especially on the spread of terrorism, violations of IHL and IHRL, and the consequences of this phenomenon on peace and stability in Europe and Sahel region. Part IV highlights the international warnings and initiatives to address the spread of terrorism and the transfers of mercenaries from Syria to Libya. The report ends with conclusion and recommendations based on the perspective and concerns raised by the IOLDCs.



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### THE PATTERN OF RECRUITMENT, TRAINING, AND TRANSFER OF MERCENARIES AND FOREIGN TERRORIST FIGHTERS FROM SYRIA TO LIBYA



The systematic transfer of mercenaries from Syria to Libya through Turkey.

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## **Part 1: Introduction**

### **The key objectives of this report:**

1. The key objectives of this report are to:
  - a. Present the nature and root causes of the emerging conflict in Libya and assist decision-makers, research centers, press and media agencies in the Western countries on exploring facts about the catastrophic situation which resulted due to the constant transfer of mercenaries and foreign terrorist fighters from Syria to Libya.
  - b. Raise awareness and alert international organizations, including the Security Council and other relevant bodies of the United Nations, on:
    - the danger from the breach of the Security Council Resolution 2178.
    - the emergence of a new phenomenon of the systematic recruitment, financing, and transferring of mercenaries and foreign fighters from Syria to Libya with the support of Member States, alongside the government of National Accord of Libya.
  - c. Warn on the:
    - highly potential catastrophic outcome of the systematic transfer of thousands of mercenaries and foreign terrorist fighters from Syria to Libya and their repositioning and deployment towards the African Sahel and North Africa region, especially in the absence of effective and early warning mechanisms of the relevant United Nations bodies
    - urgent need to pressure both the Turkish government and the government of National Accord of Libya to put an end to supporting the transportation of mercenaries from Syria to Libya, and to expel foreign mercenaries and terrorist fighters from Libya.
  - d. Draw attention to the Security Council Counter-Terrorism Committee on the importance of:
    - identifying the main gaps that prevent Member States from addressing the issue of transfer of foreign fighters and increasing the strategic options available to Member States of the UN, and
    - addressing the issue of the flow of foreign terrorist fighters, as requested by the Security Council in paragraph 24 of its resolution 2178 (2014).
  - e. Draw attention on:
    - the escalating danger that this phenomenon represents
    - the consequences facing the Libyan people and people in the neighboring countries
    - the potential risks and impacts of this phenomenon on regional and international security, peace and stability, especially in the Sahel and Europe.
    - the impacts of the transfer of mercenaries to Libya have on the LDCs.
  - f. Analyze the root causes of the conflict in Libya to reach constructive conclusions that will lead the relevant stakeholders to develop a road map detailing the measures and steps that are required to stop the recruitment and transfer of mercenaries and foreign fighters.

- g. Put forward conclusions and recommendations that help push the relevant United Nations bodies and its international partners to urgently and decisively activate the measures and mechanisms available to them to address the challenges posed by mercenaries and foreign terrorist fighters, especially as the effectiveness of these mechanisms depends on the activation of urgent plans of actions.

## **The methodology of the report:**

2. The report reviews:
  - the root causes and main actors of the conflict in Libya;
  - the most significant steps in the process of recruiting and transferring mercenaries and foreign fighters;
  - the risks and consequences resulting from the lack of an active role of the United Nations in using the early warning system to curb and stop the spread of the phenomenon of mercenaries and foreign terrorist fighters.
3. The approach set out in the report is based on identifying the risks given the various threats posed by mercenaries and foreign terrorist fighters. In addition, the report briefly examines the root causes of the conflict and the threats arising from the transfer of mercenaries and foreign terrorist fighters from Syria to Libya, including the impact on the stability of the Least Developed Countries.
4. The report also examines the risks associated with the involvement of the UN Member States in financing, recruiting and transferring mercenaries to support terrorist organizations, with a focus on emerging systematic patterns of cooperation between mercenaries, terrorist fighters and local militias under the protection of the UN Member States.
5. The report also deals with the specific gaps and challenges faced by Member States to address the issue of the recruitment and use of mercenaries. It provides detailed thematic findings on the challenges that relevant international bodies and Member States face to curb the phenomenon of foreign terrorist fighters and mercenaries.
6. The report attaches the importance of addressing the risks and concerns raised by the neighboring countries of Libya in relation to the spread of terrorism and armed groups, including groups affiliated with the Islamic State, Jabhat l-Nusra, Al-Qaeda, Boko Haram, and other groups loyal to the Muslim Brotherhood. Also, it raises concerns related to the fact that these groups could make Libya a safe haven to support armed groups and terrorist activities in neighboring countries, particularly in the Sahel region.
7. The report is based on the notion of mercenaries as defined in Article 1 of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, which states that a “mercenary” is any person:
  - who is specially recruited locally or abroad to fight in an armed conflict;
  - who does, in fact, take a direct part in the hostilities;

- who takes part in the hostilities primarily for the purpose of achieving a personal gain and, in fact, is promised, by or on behalf of a party to the conflict, material compensation significantly in excess of that promised or paid to combatants of similar rank and functions in the armed forces of that party;
  - who is neither 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.
8. It is also based on international conventions related to combating terrorism, to urge Member States to comply with the provisions of international instruments related to counter terrorism.
  9. The sources are also based on reports, news, media, research centers and statements of numerous observers and local, regional and international organizations.
  10. The report also draws its sources from the warnings and concerns expressed by the Member States regarding the impact of the transfer of mercenaries to Libya and its consequences for peace and stability in neighboring countries.

### **Actors and root causes of the conflict in Libya**

11. Historically, Libya has fallen under the influence of extremism and terrorism ideology, the root causes of the conflict in Libya begin with the Muslim Brotherhood's re-establishment of its entity in Libya through the formation of the Justice and Construction Party. This political party, which seeks to establish an Islamic caliphate in Libya, has become the most influential bloc in parliament.
12. With the outbreak of the civil war in 2011, the Brotherhood's military activities were represented by the Libya Shield Force. Since 2014, they have been relying on the support of the Libya Dawn (also called the Libya Dawn Alliance), an armed group that represents the political alliance of the militant group that lost the elections. This armed group became the most important party in the civil war in Libya. In 2014, the Alliance took control of the capital, Tripoli, and established the General National Congress dominated by the Muslim Brotherhood.
13. Since 2014, we have witnessed the emergence of militias from the extremist groups affiliated with the Muslim Brotherhood, Al-Qaeda and the Islamic State. In particular, in November 2014, the ISIS announced the creation of its branch in Libya and claimed to have committed several terrorist attacks in Libya. The role of Al-Qaeda and the groups under its banner are also emerging, such as the Mujahideen Shura Council and Ansar al-Sharia, which established partnerships between jihadist groups linked to Al-Qaeda after 2011 to activate their attack on the Libyan National Army.



14. Terrorism has become a serious threat to national security in Libya, where many terrorist acts are being committed against civilians, political activists and the media. In contrast, these militias have also become a source of recruitment for the members of National Security Forces.
15. The phenomenon of mercenaries and foreign terrorist fighters has also become closely related to the activities of the Muslim Brotherhood and their strategy in establishing the Islamic caliphate, as the follow-up and establishment of this strategy involved the transfer of foreign terrorist fighters from Syria to Libya, the financing of operations by Qatar, and Turkey's implementation of contracting and recruitment processes with terrorist entities.

### **The emergence of a systematic pattern of transfer of mercenaries and foreign fighters from Syria to Libya**

16. With the collapse of ISIL in northern Iraq, Libya has become a safe haven for the repositioning of terrorist groups in Africa. Over time, militias and terrorist groups took control of the Libyan capital thanks to the increasing transfer of mercenaries and foreign fighters through Turkey, as the mercenaries and foreign terrorist fighters, including operatives of ISIL, Al Qaeda, the Al Nusra Front, and individuals of the entities associated with them, became a regional and international dilemma. The impact of the mission of these groups became increasingly complex and difficult to govern due to the diversity of factions.
17. Numerous sources and investigations denounced the transfer of mercenaries from Syria to Libya, as it is an obstacle to peace in Libya and a threat of the spread of terrorism in the region and in Europe. The reports particularly expose what appears to be an emerging pattern of the systematic transfer of mercenaries from Syria to Libya, with the involvement of Turkey and the financial support from Qatar.
18. In particular, the Libyan National Army stated on more than one occasion that it was fighting terrorist and criminal groups backed by Turkey and Qatar, during its war with extremist militias in the Libyan capital. According to a spokesman for the Libyan National Army, Turkey sends elements from the Al-Nusra Front to Libya to support the Government of National Accord (GNA) in the ongoing battle for control of Tripoli. The working group on mercenaries and other special rapporteurs in the United Nations also confirmed that "Turkey has engaged in the large-scale recruitment and transfer of Syrian fighters to take part in hostilities in support of the GNA."
19. In April 2020, the number of Syrian mercenaries who have been to Libya was estimated to about 16500, including 350 children under the age of 18. In addition to this systematic pattern of transfer of Syrian mercenaries to Libya, we also witnessed the transfer of some Sudanese, Somalian, Chadian, and Russian mercenaries, adding to the complexity of the conflict in Libya.
20. The escalating and systematic transfer by Turkey of mercenaries and foreign terrorist fighters from Syria to Libya is a flagrant violation of Security Council Resolution 2178

(2014), in which the Security Council expressed its “particular concern about the recruitment of foreign terrorist fighters by entities, such as the Islamic State in Iraq and the Levant (ISIL), the Al-Nusrah Front (ANF) and other cells, affiliates, splinter groups or derivatives of Al-Qaida, as defined by the Committee established pursuant to resolutions 1267 (1999) and 1989 (2011), recognizing that the threat of foreign terrorist fighters includes, among other things, individuals who support the acts or activities of Al-Qaida and its cells, as well as affiliated groups and dissident entities, including by recruiting or supporting the acts or activities of these entities, and stressing the urgent need to address this particular threat.”<sup>1</sup>

21. Libya and Qatar have ratified the International Convention against the Recruitment, Use, Financing, and Training of Mercenaries, as Article 5 of the Convention states the following:

- “1. States Parties shall not recruit, use, finance or train mercenaries, and shall prohibit such activities in accordance with the provisions of this present Convention.
2. States Parties shall not recruit, use, finance or train mercenaries for the purpose of opposing the legitimate exercise of the inalienable right of peoples to self-determination, as recognized by international law, and shall take, in conformity with international law, the appropriate measures to prevent the recruitment, use, financing, or training of mercenaries for that purpose.
3. State Parties shall punish the crimes stipulated in this convention with appropriate penalties that take into account the grave nature of these crimes”<sup>2</sup>.

## **Part 2: The process of systematic transfer of mercenaries and foreign fighters from Syria to Libya**

### **First: Mobilizing, financing, and preparing the transfer of mercenaries from Syria to Libya:**

22. On February 5<sup>th</sup>, 2020, it has been reported on the Associated Press that Turkey had long trained and financed opposition militants in Syria and had opened its borders to foreigners who could join ISIS<sup>3</sup>.
23. In January 2020, the Guardian revealed that the fighters had signed direct six-month contracts with the UN-backed Government of National Accord for \$2,000 per month. All of them had Turkish citizenship, a reward that Turkey used to convince brigade fighters on its payroll for several years. Turkey also pays the medical bills for wounded soldiers and is responsible for returning the dead to Syria. Last month, phone footage emerged of men with Syrian accent claiming to be in Tripoli, in which a man said, “The Free Syrian Army is in Libya to defend Islam”<sup>4</sup>
24. On June 28<sup>th</sup>, 2020, Turkish news transmitted messages on social media between a number of terrorist groups in Syria supported by Turkey, urging a fight in Libya in exchange for money paid by Turkey<sup>5</sup>.

25. In addition to the Syrian fighters, the Somali Guardian newspaper revealed, in a report issued on July 24<sup>th</sup>, 2020, that Qatar and Turkey had recruited thousands of Somali mercenaries to fight in Libya, along with GNA militias. The report stated that more than 2,000 Somalis were deployed by Qatar and Turkey on the front lines of the fighting in Libya, quoting Somali recruits from the Qatari army, adding that many of their colleagues in the country have already been deployed to the confrontation zones in Libya and were waiting to be sent<sup>6</sup>.
26. Concerns in Washington soon rose about the groups Qatar was supporting, officials said. A debate over what to do about the weapons shipments dominated at least one meeting of the so-called Deputies Committee, the interagency panel consisting of the second-highest ranking officials in major agencies involved in national security. "There was a lot of concern that the Qatar weapons were going to Islamist groups," one official recalled. The Qataris provided weapons, money and training to various rebel groups in Libya. One militia that received aid was controlled by Adel Hakim Belhaj, then leader of the Libyan Islamic Fighting Group, who was held by the C.I.A.<sup>7</sup>
27. In August 2017, the Ministry of Foreign Affairs of Chad announced in a statement that Chad would close the Qatari embassy in N'Djamena, accusing the Gulf Arab state of trying to destabilize the central African nation through its northern neighbor Libya. Chadian Foreign Minister Hossein Ibrahim Taha added: "In order to preserve peace and security in the region, Chad calls on Qatar to cease all actions that would undermine its security as well as the security of the Lake Chad Basin and the Sahel"<sup>8</sup>.
28. In the broader Sahel region, terrorist groups have expanded their operations in north and central Mali and the Tri-Border Region of Burkina Faso, Mali, and Niger. These include affiliates of al-Qa'ida and ISIS, such as Jama'at Nasr al-Islam wal Muslimin (JNIM) and ISIS-Greater Sahara (ISIS-GS), respectively, as well as non-aligned groups. The number of attacks in the Western Sahel region increased 250 percent since 2018.<sup>9</sup>
29. On May 21<sup>st</sup>, 2020, Al-Arabiya TV reported that the leader of the Jabhat Al-Nusra, Issam Al-Hana, known as Abu Mansour Al-Maghribi, revealed secret information about the group's relations with Turkey and Qatar. He spoke about the nature of his work with the Turkish side and said that he relies on coordination with them to recruit ISIS fighters, as he brings fighters across the Turkish border and treats the group's wounded in Turkey's hospitals. He also revealed that he had contacted Qatari foreign parties to support the organization, most notably the Qatari Sheikh Khaled Suleiman, who finances Jabhat al-Nusra with 1 million dollars a month<sup>10</sup>.
30. Rami Abdel-Rahman, director of the British-based Syrian Observatory for Human Rights, told the Associated Press that it has identified at least 130 former ISIS or al-Qaeda fighters among some 4700 Turkish-backed Syrian mercenaries fighting for the GNA<sup>11</sup>.
31. Elizabeth Tsurkov, a fellow at the American Foreign Policy Research Institute, which closely follows Syrian armed groups, notes that Turkish materials, promises of citizenship

or facilitating travel to Europe remain the main source of motivation for the Syrian fighters being sent to Libya<sup>12</sup>.

32. According to Al-Ghad newspaper (10 July 2020) and the German newspaper “Die Welt”, the salaries of the fighters who joined the militias of the Libyan government of National Accord, amount to about \$2,000 per month, bringing the total amount that Turkey pays to mercenaries from Syria to about \$30 million per month. According to leaked documents recently published, Turkey would get these amounts from the money of Libya itself, as the Libyan Central Bank has transferred more than \$160 million to a Turkish company known as Defense Industry Company called SSTEK<sup>13</sup>.
33. In February 2020, the French journalist Richard LaPfer said at the Munich Security Conference that Qatar provided Ansar al-Din and the movements of Tawhid and Jihad hundreds of millions of dollars, despite their known links to al-Qaeda. He added that he himself saw as a Qatari Red Crescent plane smuggling terrorists, who had fought against the French army in Mali to a safe place in Libya. This testimony seems to be confirmed by the mayor of Gao, who accused Qatar of supporting terrorists in Mali through Gao and Timbuktu airports and through networks of terrorist groups<sup>14</sup>.
34. The U.S. photojournalist Matthew Schrier filed a lawsuit in the Federal Court in Florida accusing Qatar Islamic Bank of providing financial facilities to terrorist organizations, including the Al-Nusra Front and its ally Ahrar Al-Sham. He explained in remarks to Fox News channel that the bank did this in several ways, one of which is in donation of 500,000 Qatari Riyals to the Qatar Charitable Foundation, which funds these organizations, pointing out that it is an institution with a long history of supporting terrorism. In the 60-page federal complaint, Shearer accused Qatar Islamic Bank of allowing individuals and the charities to transfer money to Jabhat al-Nusra, which "kidnapped" him while trying to cross the Syrian border into Turkey in December 2012<sup>15</sup>.
35. On August 22<sup>nd</sup>, 2019, The Times revealed that Qatar's Al-Rayyan Bank (a Qatari-owned bank based in London) provided financial services to several British organizations linked to extremists and that the accounts of some agents had been frozen during a security crackdown. Two days later, the newspaper revealed that another Qatari bank, the Doha Bank, which has an office in London, is facing charges of transferring money to a terrorist group in Syria, according to a lawsuit before the High Court in London. In a report posted on its website, the newspaper revealed that two millionaire brothers are facing accusations of using accounts at the Doha Bank to transfer large amounts of money to Jabhat al-Nusra during the Syrian war<sup>16</sup>.
36. According to articles from the Syrian Observatory for Human Rights, the Turkish authorities have contributed to the recruitment, financing and training of Syrian fighters belonging to extremist terrorist groups, such as al-Qaeda, ISIS, and Jabhat al-Nusra (the Syrian side of al-Qaeda, also known as Jabhat Fateh al-Sham, or al-Qaeda in Syria), who are blacklisted as terrorist organizations, as well as hundreds of Turkish-backed jihadist militants in the Afrin region of Syria.

37. In December 2019, the Syrian Observatory for Human Rights received information that the Libyan Government of National Accord, the Syrian factions, and Turkish Intelligence, had met and reached an agreement under which the Syrian factions would send fighters to combat alongside the Government of National Accord against the Libyan National Army in western Libya. Notably, the Government of National Accord will transfer them from Syria to Turkey, with the support of Turkish Intelligence. This agreement includes that each fighter will have a six-month contract, and will receive between \$2,000 and \$2,500, with compensation of \$35,000 in case of injuries. Under this agreement, Turkey also accepted to grant Turkish citizenship as a reward to fighters participating in the combating in Libya, and the Libyan government agreed to provide additional benefits and services guaranteed in the host country<sup>17</sup>.
38. In January 2020, "Parliament Member Ali Al-Takbali told Al-Arabiya that the relationship between the Turkish regime, the Brotherhood, and the Libyan terrorist leaders is based on mutual benefit, as Turkey sheltered them and allowed them to smuggle gold and money and store it in its banks, in exchange for its help in implementing its expansion plan in Libya and the region, noting that Abdelhakim Belhadj is part of the Turkish project in Libya, who has been used since 2011 by the Turkish intelligence services, to recruit, train and transfer extremists from Libya to Syria Turkey, and is being used now to bring them back to Libya".<sup>18</sup>

## **Second: Recruiting and training mercenaries and foreign terrorist fighters**

39. Qatar and Turkey signed an agreement on Tuesday to send military advisers and instructors for the armed forces of Libya's GNA government. "We have reached an agreement with Turkish Defense Minister Hulusi Akar and Qatar's (minister) Khalid bin Mohamed al-Attiyah on tripartite cooperation to build a military institute for training," said the GNA's Deputy Defense Minister Salah al-Namrouch<sup>19</sup>.
40. Turkey is sending Syrian militants linked to groups, such as al-Qaeda and the Islamic State to fight on behalf of the Libyan government of National Accord, recognized by the United Nations. According to a statement issued by the Working Group on the Use of Mercenaries, Turkey has engaged in large-scale recruitment and transfer of Syrian fighters to participate in hostilities in support of the Government of National Accord. As claimed by the Working Group, these fighters have been recruited through armed factions of the Syrian National Army, which is accused of serious human rights violations in Syria. The Working Group added that, according to reports, thousands of Syrians, including children under the age of 18, have been sent to Libya via Turkey in the last months<sup>20</sup>.
41. The recruitment and transfer of mercenaries are acknowledged by Ahmed Kermo Shihabi, a leader of the so-called pro-Turkish Syrian National Army. He declared: "We are ready to go to jihad anywhere; we will not stop... Our souls and our children. Redemption of the Ottoman caliphate"<sup>21</sup>.
42. Local organizations in Libya documented the recruitment of mercenaries under the auspices and support of the Turkish Intelligence and the Turkish army. Turkey recruits

mercenaries of opposition factions in Syria and pro-Turkish armed militias located in several areas under the Turkish control in Syria. Turkey trains the foreign fighters in their camps and then arranges their transfer for the government of Nation Accord of the Libyan State, who then receive and deploy them on the front lines.

43. President Recep Tayyip Erdogan signed a military agreement with Libyan Prime Minister Fayez el-Sarraj (GNA) at the end of November 2019, intended to strengthen his support for the government in Tripoli in the face of the offensive of Marshal Khalifa Haftar (LNA). According to several reports, Turkey would have recourse to private security companies for the implementation of this agreement, and to a company in particular named Sadat. Sadat is a private military company specializing in international consulting and training, whose mission is "to establish collaboration in the fields of defense and defense industries with Islamic countries".

On December 17, Adnan Tanriverdi gave further details, saying in a newspaper that his country "needs private security companies to employ mercenaries". Without hesitation, he added: "If Turkey sends mercenaries to Libya, it will be more effective than the Wagner or Blackwater companies". Known for his multiple relations with Islamist movements and groups in Arab countries, Adnan Tanriverdi recently said that his company's mission was to "define the dangers that threaten the Islamic world". He notably revealed the training of the Free Syrian Army, now renamed "Syrian National Army" whose members are sent to fight in Libya. To the Turkish press, General Tanriverdi further affirms that this Syrian national army is only "the armed wing of the Muslim Brotherhood".<sup>22</sup>

44. In the process of recruiting mercenaries, not only the fighters and members of armed militias are targeted, but also the child abduction and the prisoners, who are recruited to join the fight in Tripoli in exchange for their release, are targeted. These prisoners are either accused of dealing with the Syrian government or have previously dealt with ISIS and Jabhat al-Nusra. In particular, the Syrian Observatory learned that Turkish forces were working to recruit prisoners inside the areas they had recently controlled in the eastern Euphrates.
45. In June 2020, the Syrian Observatory for Human Rights confirmed that Recruitment of children to fight in Libya is a phenomenon that is still ongoing, according to the Libyan Center for Human Rights that accuses the government of National Accord and the militias that it is fighting with, in addition to the Turkish forces targeting at teenagers and minors in orphanages and deceiving them in exchange for money. The Libyan Center for Human Rights have said that the recruitment of children by the Wefaq factions and Turkey in Libya is very widespread, especially in Misrata, where minors are lured to fight for weekly salaries of up to 1,000 Libyan dinars (\$200)<sup>23</sup>.

### **The recruitment process and Turkish registration centers in Syria:**

46. Since December 2019, Turkey opened registration centers for people wishing to go to fight in Libya. Relying on militants and extremist elements has become one of the backdoors of Turkish involvement in conflict zones. In this context, Adnan Taniverdi, the Turkish President's military assistant, was invited to set up a proper military company to assist and train the soldiers.
47. On 9 January 2020, the Syrian Observatory for Human Rights(SOHR) monitored, during the period from February 2 until 8 January 2020, more than 1240 Turkish trucks and military vehicles arrived in Syria, carrying tanks, personnel carriers, armored vehicles, mobile bulletproof guard booths and military radars, while the number of Turkish soldiers deployed in Idlib and Aleppo during the same period were at least 5000 soldiers<sup>24</sup>.
48. In Syria, pro-Turkish armed factions were reunified and merged under Turkish auspices and is called the "Syrian National Army". The formation of this army was announced on 3 October 2019 and was subordinated by the Ministry of Defense of the Syrian Interim Government. In April 2020, the Syrian National Army suspended its financial allocations which supposed to be sent to Al-Rahman Legion; however, the legion had refused to send its list of fighters to join the Libyan battle. Some factions have already sent lists of fighters who were forced by Turkish intelligence<sup>25</sup>.
49. On January 24, 2020, the journalist Hamsa Younis of Africa News Portal interviewed the director of the Syrian Observatory for Human Rights. He explained the process of recruiting mercenaries participating in the Libyan war and highlighted that there were four recruitment centers in the Syrian region of Afrin at the beginning, but recently, Turkey opened seven additional centers due to the high level of demand from Syrian fighters who want to get money in exchange for going to fight in Libya. The Islamic Levant Corps, which is the military wing of the Muslim Brotherhood in Syria and a close partner of Turkish intelligence also entered the recruitment line in the Centers of Afrin<sup>26</sup>.
50. The recruitment and training of mercenaries in Turkish camps in Afrin and Euphrates regions are done under the supervision of the former Mayor of Tripoli, Mahdi al-Harati, who fought before in the Syrian war. He mostly recruited members from the brigade Al-Mutassim, Sultan Murad Brigade, Northern Falcon Brigade, Hamza, Levant Corps, Suleiman Shah, and Samarkand Brigade<sup>27</sup>.

#### **Numbers of mercenaries transferred in Turkish training camps:**

51. On 29 December 2019, the Syrian Observatory for Human Rights (SOHR) obtained reliable information about Turkey's involvement in transporting fighters from Syria to Libya. It reported that the number of mercenaries who arrived in the Libyan capital Tripoli was 300 at the time, and the number of recruits who landed in Turkish camps to receive training courses was between 900 and 1,000 recruits<sup>28</sup>.
52. On 25 April 2020, the Director of the Syrian Observatory for Human Rights (SOHR), Rami Abdulrahman, revealed the list of more than 2000 fighters who belong to Al-

Sharqiya Army, Ahrar al-Sharqiya and Sultan Murad—who were getting ready to join the other fighters already in Libya that estimated to total over 5,300<sup>29</sup>.

53. As of late December 2019, leaders of these Syrian armed groups were registering their members and the new civilian recruits to deploy in Libya, including children under the age of 18, provided with forged identity documents. Some of the children were internally displaced during the conflict in Syria and received military training by the armed group that recruited them before transferring to Libya.
54. According to the Syrian Observatory for Human Rights on 17 May 2020 “As a new batch of mercenaries have arrived in Libya, the number of recruits who arrived in Libya has risen to 8,950 mercenaries, including a group of non-Syrian mercenaries, while nearly 3,300 others arrived in Turkey to undergo training courses. Among the total number of recruits, some 150 children between the ages of sixteen and eighteen, have been recruited to fight in Libya, the majority of whom are of “Al-Sultan Murad” Division, by offering material incentives, exploiting their difficult living situation and poverty.”<sup>30</sup>
55. On 25 May 2020, the Syrian Observatory for Human Rights revealed the arrival of a new batch of 500 fighters from the Syrian factions loyal to Turkey to participate in military operations alongside the Government of National Accord. The observatory stated that the number of recruits who arrived in the Turkish camps to receive training amounted to about 3,400 people<sup>31</sup>.
56. On 20 June 2020, the Syrian Observatory for Human Rights reported that some 1,800 mercenaries arrived at the Turkish training camps in preparation for their transfer to Libya<sup>32</sup>.
57. On June 2020, UN rapporteurs sent a joint letter to the Turkish government seeking further information about its role in the recruitment, financing, transportation and deployment of Syrian fighters to Libya. This letter revealed: “Turkish authorities allegedly contracted private military and security companies to facilitate the selection as well as the preparation of official and contractual documentation for the fighters, apparently in coordination with the Turkish security services. One of the companies cited in this context was Sadat International Defence Consultancy [SADAT],” the letter said. “The reported role of Turkish private military and security companies in facilitating the recruitment and contracting of Syrian fighters, in apparent coordination with Turkish authorities, is an additional element of concern,”<sup>33</sup>

### **Third: Transfer and deployment of mercenaries from Syria to Libya:**

58. Several Syrian factions responded enthusiastically to Turkey's call to send troops, especially the Hamza Brigade, al-Mutassim, the Sham Falcons or Sultan Murad's band, mostly Syrian Turkmens.
59. The Libyan National Army arrested some Turkish fighters during the fighting in Tripoli, who admitted to working for the Turkish intelligence services. Turkish intelligence was



tasked with handing over weapons to Islamist rebels in parts of northern Syria in late 2013 and early 2014, according to the Turkish prosecutor and testimony given in court by gendarmerie officers responsible for border control<sup>34</sup>.

60. The deployment of Syrian fighters in Libya followed the signing of the Memorandum of Understanding on Security and Military Cooperation between Turkey and the Government of National Accord on November 27<sup>th</sup>, 2019. While the memorandum deals with numerous activities, ranging from training and consultancy services, joint military planning, training activities to weapons systems and the use of equipment, it also contains dispositions for the exchange of "guest staff", advisers and units. A "guest" is defined as "members of the defence and security agencies and sent by one party to another", without specifying whether these individuals are part of the official institutions of state security or if they can be selected from armed groups.
61. The General Command of the Libyan National Army announced that it has information and evidence of Turkey's transfer of these fighters to Libya, including elements of the so-called Jabhat al-Nusra Front affiliated with the Liberation of the Levant, and other organizations that are intellectually and ideologically close to the Muslim Brotherhood in Syria. These people could have been transferred to Libya by flying with the "wings" owned by terrorist Abdul Hakim Belhadj. The General Command also confirmed that Turkey is transferring extremist elements from other countries to Libya, especially from Mali, Mauritania and Niger, as well as Boko Haram<sup>35</sup>.
62. As of late December 2019, the fighters were transferred to Turkish territory through the Hawar Kilis military crossing and the Jarabulus border crossing, and they were provided with temporary Turkish identity documents for protection and employment contracts for a period of three to six months. The Turkish authorities allegedly contracted with private military and security companies, including Sadat International Defense Consultancy to facilitate the selection and preparation of official and contractual documents for the fighters in coordination with the Turkish security services<sup>36</sup>.
63. The sources confirmed that Mehdi Al-Harati, who plays the biggest role in the recruitment process, coordinates with Abdel Hakim Belhadj for the transfer of mercenaries. Abdul Hakim Belhadj, who has been in Turkey for years, has emerged as one of Turkey's allies and aides in facilitating the movement of Syrian fighters from Syria to Turkey and then to Libya<sup>37</sup>.

#### **Numbers of foreign fighters deployed in Libya:**

64. "Two thousand Syrian fighters have travelled from Turkey or will arrive imminently to fight on the battlefields of Libya" – the Guardian reported on January 15<sup>th</sup>, 2020. An initial deployment of 300 men from the Second Division of the Syrian National Army (SNA), left Syria through the Hawar Kilis military border crossing on December 24<sup>th</sup>, followed by another 350 men on December 29<sup>th</sup>. They were then sent to Tripoli, the Libyan capital, where they were deployed to the frontline positions in the east of the city.

Another 1,350 men crossed into Turkey on January 5<sup>th</sup>, and some have since been deployed to Libya, while others still undergoing training at camps in southern Turkey”<sup>38</sup>.

65. On February 5<sup>th</sup>, 2020, it has been reported on the Associated Press that Turkey is currently sending thousands of members of terrorist organizations to Libya to participate in the war. The article quoted two unidentified Libyan militia leaders and a human rights organization that monitors violence in Syria, saying that Turkey is currently sending Syrians belonging to terrorist organizations, such as al-Qaeda and ISIS to Libya to fight on behalf of the Government of National Accord of Libya. A Libyan militia commander told the Associated Press that Turkey has brought more than 4,000 foreign fighters to Tripoli, and that "dozens" of them belong to extremist groups.<sup>39</sup>
66. In April 2020, according to Al-Arabiya channel, the number of Syrian mercenaries who visited Libya reached about 16,500, including 350 children under the age of 18. It also includes about 5,850 fighters who returned to Syria after the expiration of their contracts<sup>40</sup>.
67. In the latter half of June 2020, the Syrian Observatory for Human Rights’ director revealed that the number of Syrian mercenaries in Libya had reached more than 15,000 Syrian nationals, explaining that some of those returning from Libya confirmed the existence of a Turkish military operation "ready" to try to control Sirte and the oil regions of Libya<sup>41</sup>.

#### **Proof of the means of transporting mercenaries from Syria to Libya:**

68. According to Libya News website, on December 29<sup>th</sup>, 2019, international air traffic monitoring sites confirmed the presence of suspicious air traffic flying from Turkey to western Libya and vice versa intensively, confirming the launch of lines to transport mercenary militants from Turkey to Libya. This comes in confirmation of press reports that Turkey launched a direct air bridge between Istanbul and Mitiga military airport near Tripoli to transport 1,000 fighters from Syria as mercenaries under orders of the Turkish army<sup>42</sup>.
69. In December 2019, reliable sources provided the Syrian Observatory for Human Rights with information on the identity of these fighters, who appeared in a video on a Turkish private jet on their way from Syria to Libya. Most of them are fighters displaced from central Syria to Afrin and Idlib<sup>43</sup>.
70. In December 2019, the Syrian Organization for Human Rights confirmed that local sources in Al-Hasakah, Syria, had recently reported to the organization that Turkish forces were continuing to withdraw extremist groups from Ras al-Ain to send them to Libya via Turkish territory to participate in the fighting there<sup>44</sup>.
71. On December 24<sup>th</sup>, 2019, 300 fighters from the Syrian National Army's 2nd Division, an umbrella for pro-Turkish-funded groups, left Syria via the Hawar Kilis military border crossing to Turkey, followed by 350 fighters on December 29<sup>th</sup>. They were flown to

Tripoli, where they were transferred to confrontation sites of al-Ma'aleh in the east of the city, and on January 5<sup>th</sup>, 2020, another 1,350 fighters crossed into Turkey.<sup>45</sup>

72. In May 2019, Colonel Abu Bakr al-Badri revealed that the Turkish ship "Amazon" which docked a few days earlier in the port of Tripoli, was carrying large numbers of terrorists, including mercenaries of Daesh. Colonel Abu Bakr al-Badri also denounced the arrival of arms and military supplies to armed militias in Tripoli, after documenting the extension of support by several parties, including Turkey.<sup>46</sup>
73. On April 12<sup>th</sup>, 2020, Midad news aired a video entitled "Turkey is drowning Libya with Syrian mercenaries", in which it reveals Turkey's continued transfer of Syrian mercenaries to Libya to fight with the al-Wefaq forces against the Libyan army in Tripoli. The report explained that despite the no-fly measures and the closure of countries due to the outbreak of the new Coronavirus in the world, Turkey continues to transfer Syrian mercenaries to Libya.<sup>47</sup>
74. On May 11<sup>th</sup>, 2020, the Syrian Observatory for Human Rights reported that Syrian mercenaries continued to flow into areas under the control of the Al-Wefaq government: 12,000 recruits were deployed in the Libyan territories, including 150 under the age of 18. "What is happening is not a recruitment of children, but a kidnapping in every sense of the word to take part in the fighting in Libya," the director of the Syrian Observatory for Human Rights said in a statement.<sup>48</sup>
75. According to Al-Arabiya, in May 2020, the live radar data from flight-tracking service Flightradar24.com showed the Afriqiyah Airways flight leaving Istanbul and stopping shortly in the southern Turkish city of Antalya. It was accompanied by an unmarked Lockheed C-130 Hercules military aircraft throughout its journey. While Al-Arabiya English could not independently verify whether both aircrafts were carrying passengers or cargo, a source from Misrata airport informed Al-Arabiya two weeks later that an African Airways plane arriving from Turkey, carrying 122 Syrian mercenaries on board.<sup>49</sup>
76. According to Arab Observers, Syrian mercenaries sent to Libya lies in transporting through the airline's "Wings" company owned by Abdelhakim Belhaj. Sites specialized in air traffic control reported that the Libyan Wings Aviation Company had unprecedented 8 flights to Turkey within 6 days. Libyan reports said that they had transported a number of Syrian mercenaries from Turkey to Libya<sup>50</sup>.
77. According to RFI, anonymous sources at Mitiga airport in Tripoli testify to a significant flow of fighters from Turkey on board unregistered flights: "According to various sources joined by RFI, it is the Libyan airline Afriqiyah Airways and the al-Ajniha company, owned by Abdelhakim Belhaj, a jihadist residing in Turkey, who transported these fighters from Turkey to Tripoli<sup>51</sup>."
78. According to Libyan reports, a number of Syrian mercenaries have been transferred from Turkey to Libya. A widely circulated video, filmed from inside an African Airlines airline, shows hundreds of Syrian fighters being transported to Libya.<sup>52</sup>

79. The director of the Syrian Observatory for Human Rights stressed that the means of transporting mercenaries from Syria to Libya were not limited to aircraft only, as "Turkish warships" were responsible for transporting some of them.<sup>53</sup>

#### **Deployment in the battlefield:**

80. The Member of the Libyan Parliament Said Amghaib said that the soldiers in the fighting axes arrested a number of Syrian mercenaries and other nationalities every day fighting with the militias. He also explains that while investigating them, they said that Turkey transferred them to Libya to fight the national army.
81. According to the Syrian Observatory for Human Rights' sources, the Syrian mercenaries are leading the front-line fighting groups in many Libyan territories: "After arriving on Libyan soil, pro-Turkish militants met with realities that were far from the pictures drawn by the recruits. Instead of guarding Turkish facilities, they were sent to the front lines to fight with the forces of the LNA, which entered the southern quarters of Tripoli<sup>54</sup>.
82. According to a Libyan National Army spokesman, Misrata, Zuwara and Mutaqa airports received a large number of ISIS and Jabhat al-Nusra terrorists (also known as Jabhat Fateh al-Sham or Al-Qaida in Syria).<sup>55</sup>
83. In May 2020, the Syrian Observatory for Human Rights documented a significant increase in the number of Syrian mercenaries who were killed in the ongoing military operations in Libya. "As more Turkish-backed mercenaries being killed in military operations in Libya, the total death toll increased to 318, including 18 children under the age of 18 and as well as some group commanders."<sup>56</sup>
84. A Libyan official at the Prime Minister's Office said Syrian fighters had been in Libya since early August of 2019. At first, he said they were only facilitating the work of Turkish military experts. But as the fighting escalated in mid-December, the number of Syrian fighters arriving in Libya increased. These fighters are now immediately deployed to the front lines, said the official, speaking on condition of anonymity because he wasn't authorized to talk to reporters on this subject.<sup>57</sup>
85. According to an article from the "Investigative Journal": The LNA source said that the Ahrar al-Sharqiya mercenaries are staying in Tajoura, at a base that houses at least 400 hardline Islamist Syrian militants sent to Libya by Turkey. The men were reportedly paid by a Turkish officer who also provided them with cellphones upon their arrival in Libya. Subsequently, the GNA gave the Ahrar al-Sharqiya militants 6 Toyota pickup trucks to use.<sup>58</sup>

## **Part 3: The impacts and perspectives on the systematic transfer of mercenaries and foreign terrorist fighters from Syria to Libya:**

### **First: The impact and dimensions related to the dedication of Libya as an environment conducive to terrorism:**

86. Libya has become a hub of mercenary with several factions fighting in the war with guns imported from across the Middle East and Africa. This reality is documented by regional experts and the United Nations, since the Libyan revolution began on February 17<sup>th</sup>, 2011, as part of a series of Arab Spring revolutions. The Muslim Brotherhood managed to exploit the situation in the dream of coming to power for the Islamization of countries in the Middle East and North Africa Region (MENA).
87. In March 2012, the Muslim Brotherhood re-established their presence in Libya by forming the Justice and Construction Party, a political party that sought to establish a Libyan Islamic caliphate. The Brotherhood quickly expanded to become the most influential bloc in the parliament.
88. In 2014, the Muslim Brotherhood formed a political alliance of losers in the elections under the name of the new General National Congress. This group was supported by armed groups outside the control of the State, called Fajr Libya alliance. It is considered as one of the most important parties to the civil war in Libya. The same year, the Fajr Libya alliance took control of Tripoli. In addition, the General National Congress established its own governmental body called the National Salvation Government.
89. The parliament then tasked the national army, led by General Khalifa Haftar, to fight the Fajr Libya alliance. Thereby, Haftar launched Operation Dignity in an attempt to crush the Fajr Libya alliance and other armed Islamist groups. With the loss of control of territory by the Muslim Brotherhood, an agreement was signed in an attempt to end the 2014 war in Libya. The agreement was signed in Sakhirat, Morocco, on December 17<sup>th</sup>, 2015, under the auspices of the United Nations, and under the supervision of the UN envoy Martin Kobler<sup>59</sup>.
90. Nevertheless, the conflict continued to rage, with Libya's Government of National Accord (GNA) funding 28 militias and mercenary groups to fight in the ongoing war, costing the GNA \$50 million per militia monthly, according to official and tribal leaders.<sup>60</sup>
91. Among the main armed groups present in Tripoli and Sahel region are:
  - The Special Deterrence Force, which is considered as the Central Support Force militia.
  - The Libyan branch of ISIS, which announced its establishment in November 2014, and carried out several terrorist attacks
  - Al-Qaeda and affiliated factions, including the Shura Mujahideen and Ansar al-Sharia, which were able to rebuild Ansar al-Sharia networks in Benghazi and

Ajdabiya, and worked to forge partnerships between al-Qaeda-linked jihadist groups after 2011 to activate their offensive against the Libyan National Army.

- Besides the above mentioned groups, there are many other foreign terrorist fighters and mercenaries that are directly affiliated with ISIS and Al-Qaeda under the umbrella of Muslim Brotherhood with an aim to establish the Islamic caliphate.

## **Second: Impact of transfer of mercenaries on violations of international human rights law, international criminal law, and international humanitarian law:**

92. The Libyan people have been left alone to suffer the scourge of this influx. When impunity is rampant, a fertile environment for systematic and serious violations of international law emerges, including violations of international human rights and humanitarian law, such as acts of torture and ill-treatment, rape and other forms of sexual violence, arbitrary arrests and detentions, forced displacement, enforced disappearances, extrajudicial killings and other violations amounting to crimes and crimes against humanity.
93. Indeed, many experts stated that the transfer of mercenaries would lead to more troubles and instability in Libya. These mercenaries were suspected of committing previous violations in Syria. Among the violations, we note cases of arbitrary detention, extrajudicial killings, enforced disappearances, and other forms of deprivation, torture, and persecution as well as attacks on civilians, foreign workers and refugees. In this context, the risk of the proliferation of militias and mercenaries in Libyan territory will result in serious violations of human rights, war crimes and crimes against humanity from the perspective of international criminal law.<sup>61</sup>
94. The Syrian Observatory for Human Rights also monitored that during the conflict in Syria, terrorist factions, partly composed of mercenaries, reportedly committed war crimes and gross human rights violations, such as the recruitment of children, severe restrictions on women's rights in areas controlled by certain groups, and extrajudicial killings.
95. In July 2019, UN Special Representative for Libya, Ghassan Salamé, denounced the increased recruitment and use of foreign mercenaries alongside the use of heavy weapons and grand attacks in Libya. "Forces on both sides have failed to observe their obligation under international humanitarian law", pointing to the deadly airstrike that hit the migrant detention center in Tajoura in early July 2019.<sup>62</sup>
96. On May 13<sup>th</sup>, 2020, the director of the Syrian Observatory for Human Rights also denounced that what is happening is not recruitment of children, but a "kidnapping" in every sense of the word to take part in the fighting in Libya. These children went to Afrin to look for work and if they were victims without their parents' knowledge of the "Sultan Murad" faction close to Turkey. These kidnappings are with the knowledge of Turkish intelligence. The pro-Turkish factions have recruited about 150 children from the areas

of Afrin and all areas of Turkish occupation. Ironically, these factions are trying to attract children displaced from Idlib, the Syrian provinces, and the sons of Afrin al-Kurd as well.<sup>63</sup>

97. According to Article 8 of the Rome Statute, “conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities” can be qualified as a war crime<sup>64</sup>. In addition, the recruitment of children in armed conflict is a violation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, to which both Turkey and Libya are parties<sup>65</sup>.
98. In July 2020, the Secretary-General of the United Nations said that almost 30000 people fled their homes as a result of fighting in Tripoli’s southern suburbs and in Tarhouna, bringing the total number of internally displaced to more than 400000. Many civilians were killed or injured by improvised explosive devices reportedly planted by the Libyan National Army and associated mercenaries as they withdrew. Between 1 April and 30 June, UNSMIL document at least 102 civilian deaths and 254 civilian injuries, an increase of 172 per cent from the first three months of 2020. The World Health Organization (WHO) has meanwhile documented at least 21 attacks on medical facilities, ambulances and personnel. [...] He went on to say that, one year after an air strike on the Tajoura Detention Centre killed at least 52 migrants and injured 87 others, migrants and asylum seekers in Libya still face arbitrary detention, torture, sexual violence, abduction for ransom, forced labour and unlawful killings.
99. According to the Join Communication from Special Procedures sent to the Permanent Minister of Foreign Affairs of the Republic of Turkey on 10 July 2020: “the deployment of mercenaries to an armed conflict may threaten several human rights including, inter alia: the right to life, freedom from torture and other cruel inhuman or degrading treatment or punishment, the right to liberty and security of persons and freedom from arbitrary arrest and detention. The deployment of mercenaries in Libya is all the more concerning given the multitude and opacity of armed groups and other actors operating in a context of impunity. We are especially concerned that those deployed to Libya are affiliated with armed groups that, in some cases, have been accused of serious human rights abuses during the conflict in Syria, thus seemingly perpetuating a cycle of abuse and impunity. The lack of transparency concerning the command and control exercised over the fighters in question as well as the precise nature of their activity in Libya raises serious accountability concerns as well as questions about the respect of relevant international law.”<sup>66</sup>(See annex on reference to international human rights law).
100. As of May 2020, ICC’s prosecutor denounced violations amounting to crimes of war and crimes against humanity in Libya, including:
  - attacks against civilians: “since my last report, serious violence related to the armed conflict in Libya, particularly in and around Tripoli, has regrettably not abated. [...] Of particular concern to my Office are the high numbers of civilian casualties, largely reported to be resulting from airstrikes and shelling operations. My team continues to gather and analyse information about incidents that have occurred

during the recent period of armed conflict that may constitute crimes under the Rome Statute. [...]

- Arbitrary detentions: “This is a grave and persistent problem [...] It is worth stressing that the issue of arbitrary detention and serious mistreatment of detainees affects not only migrants and refugees, but also thousands of other people detained in prisons and detention centers across Libya. Latest figures indicate that the detention of persons without due process is widespread.
- Denial of fundamental rights during detention: “My Office is aware of allegations of serious violations in many prisons and detention facilities throughout Libya. These allegations extend to Mitiga Prison in Tripoli, which is controlled by an armed group known as the Special Deterrence Force”.
- Enforced disappearance: “Reports received by my Office also indicate increasing numbers of cases of enforced disappearance, committed with close to total impunity. The crime against humanity of enforced disappearance entails the refusal to provide information on the fate or whereabouts of persons who have been arrested and detained by a State or political organisation, or with its authorisation, support or acquiescence”<sup>67</sup>.

101. ICC’s prosecutor’s Fatou Bensouda also took the opportunity of her Office’s 19<sup>th</sup> report on the Situation in Libya to recall that: “the arrest warrants for Mr Al-Tuhamy Khaled and Mr Mahmoud Al-Werfalli are yet to be executed. The Arab Republic of Egypt, where Mr Al-Tuhamy is believed to reside, has not arrested and surrendered him to the Court. General Khalifa Haftar's Libyan National Army has neither facilitated the arrest and surrender of Mr Al-Werfalli to the ICC nor ensured his genuine investigation and prosecution in Libya. Mr Al-Werfalli is reported to be under the command of General Haftar”. She also stressed that: “military commanders may be held responsible for crimes committed by forces under their effective command and control. Military commanders have a responsibility both to prevent or repress the commission of crimes by their forces, and to submit any such crimes for investigation and prosecution”<sup>68</sup>.
102. In June 2020, she reiterated her concern at the grave escalation of violence and the high numbers of civilian casualties, reportedly largely resulting from airstrikes and shelling operations. She also noted with grave concern media and other reports of a marked increase in the quantity and quality of military equipment recently deployed to Libya. In particular, she expressed deep concern by recent reports concerning multiple mass graves found in the city of Tarhuna and its surroundings in Libya. She stated that her officer has received credible information regarding eleven alleged mass graves containing men, women and children, adding “I will not hesitate to expand my investigations and potential prosecutions to cover any new instances of crimes”. These findings may constitute evidence of war crimes or crimes against humanity<sup>69</sup>.
103. On July 7, 2020, the Libyan Foreign Ministry announced that the ICC agreed to dispatch an investigation team to the North African country to look into the crimes that Haftar's militias are accused of being responsible for in southern Tripoli and the strategic city of Tarhuna in the west of the country<sup>70</sup>.



### **Third: The impact of the transfer of mercenaries from Syria to Libya on the spread of terrorism in Africa:**

104. During the uprising against Gaddafi in 2011, Qatar provided some extremist groups inside Libya, especially those allied to Al-Qaeda, with arms. One of these groups is the faction led by Belhaj. Some of the arms that Doha sent into Libya were later used by militants with ties to Al-Qaeda in Mali<sup>71</sup>.
105. In recent years, some countries on the African continent have found themselves as victims of terrorist groups, particularly in the Sahel-Sahara region, where a large number of extremist influx and jihadist groups has doubled. In addition, the attacks have jumped by 300%, while al-Qaeda currently has more fighters than ever before in Africa, and new jihadist groups have emerged in Mauritania, Burkina Faso, Kenya, and Niger.
106. These groups are expanding their movement to include east-west corridors through Libya. Early observers predicted that ISIS would operate a new stage of its operations in the Lake Chad region because of its proximity to Libya, where funds flow from Tripoli's militias. ISIS and other militant organizations in the region have already expanded their operations into the heart of Africa, to include six countries in the Sahel region, including Chad, Cameroon, Niger and Nigeria, as well as in northern Mali and Burkina Faso.
107. Currently, the presence of ISIS, al-Qaeda, and Boko Haram has expanded significantly in many of Africa's least developed countries (LDCs): Chad, Niger, Mali, Mauritania, Cameroon, and Burkina Faso. In this context, Chad has taken actions to close the Embassy of Qatar in its capital.
108. Several States' officials expressed their concerns about a potential alliances between ISIS and various al-Qaeda branches in Libya and the Sahel. These groups would gain control of northern Mali by establishing cooperative relationship with the rebel groups, and gain influence in other Sahel countries such as Burkina Faso "American agencies watched late last year as al-Qaeda and Islamic State affiliates launched a seemingly coordinated campaign to isolate Ouagadougou, the capital in Burkina Faso. "The extremists are "more organised and they're more mobile," said a high-ranking French military official who spoke on the condition of anonymity to discuss military assessments". Militants recruit youth in the vulnerable countryside with stacks of cash," said Mr. Fane, the Malian defense official. "Leaders are known to meet in forested hideouts – particularly near the tri-state border of Mali, Niger and Burkina Faso – to plan ambushes, share intelligence and exchange battle tips, including how to make roadside bombs, Malian army leaders say".<sup>72</sup>
109. "The neighbouring countries like Chad, Sudan, Algeria, Tunisia, Egypt, fellow AU Members and beyond are suffering the consequences" of the crisis, said Ebba Kalondo, a spokeswoman for the AU.<sup>73</sup>

110. In an interview at The Economist, the U.S. Special Forces Commander in Africa, General Mark Hicks, compared the current situation in the Sahel to the rise of the Taliban in Afghanistan during the 1990s, saying that it had just started."<sup>74</sup>
111. Laura Lale Kabis-Kechrid, of the German Council on Foreign Relations, told Deutsche Welle that the threat posed by foreign fighters to the Sahel depends on the number and length of their stay in Libya.<sup>75</sup>
112. According to the Swiss newspaper "Le temps", on January 31<sup>st</sup>, 2020: In Africa, Turkish diplomats and aid workers paved the way for entrepreneurs and soldiers. But African leaders have a dim view on Turkey's military intervention in Libya, as it throws oil on the fire in Libya, and African countries are not indifferent to it. The Sahel is already teetering under attack from jihadist groups, and Africans see it as a consequence of the fall of Colonel Gaddafi and the dispersal of Libyan arsenals<sup>76</sup>.
113. On August 23<sup>rd</sup>, 2017, the Ministry of Foreign Affairs of Chad stated that Qatar's standing with the militant groups in Libya is destabilizing the region, adding that aid from Libya comes to groups in Chad, Boko Haram (in Nigeria), and the Sahel region<sup>77</sup>.

#### **Fourth: The impact of transfer of mercenaries on Europe through the prospective of making Libya a transit zone for terrorist elements to Europe:**

114. As terrorism feeds more in areas of conflict-affected war zones, the European Union fears that terrorist groups might use the Libyan crisis to escalate their power and disrupt the international balance of power in the region. The European Union also fears the movements of terrorist groups from Libya to Europe, considering the proximity of the distance between the two. While there is an increasing threat that Libya would be used as a hub for the activities of extremist groups in the Sahel region, there is also an increasing threat that Libya might become a transit country to Europe for mercenaries and terrorist groups. Thereby, this situation is threatening security, stability, and human rights at the regional and international levels.
115. According to a report issued by the European Center for Intelligence and Counter-Terrorism Studies -Germany and the Netherlands stated on July 6<sup>th</sup>, 2020, that the EU countries should work to monitor the activities of "jihadists" and terrorist groups in Libya, which are likely to pose a future threat to European security<sup>78</sup>.
116. On December 30<sup>th</sup>, 2020, nearly 300 Turkish-backed jihadists arrived at 260 miles from Italy: Fierce Sunni Islamic mercenaries, will therefore find themselves right on the North African coast of the Mediterranean from where migrant boats leave for Italy. From Zuwara and Sabratha to Pozzallo, Sicily, there are only 260 nautical miles.<sup>79</sup>
117. With the promise of getting Turkish citizenship, a reward previously given to foreign fighters, there is a higher risk that mercenaries will be able to travel to Europe. "A Syrian with a Turkish passport can obtain a visa for the United States or the Schengen area,

which is difficult or impossible with a Syrian passport," said immigration expert Victoria Rietig to Deutsche Welle<sup>80</sup>.

118. On January 20<sup>th</sup>, 2020, reliable sources informed the Syrian Observatory for Human Rights that some Turkish-backed fighters, who were shipped to Libya as part of Turkey's "mercenaries" transfer to Libya, began to leave the Libyan territories to Italy<sup>81</sup>.
119. A Libyan National Army source has previously said that 17 Syrian mercenaries will illegally attempt to travel to Italy from Zawiya. The source says that the militants have paid a smuggler for the boat trip across the Mediterranean and were set to travel<sup>82</sup>.
120. For most of the foreign fighters in Libya, Libya is not their permanent destination, but rather a transit zone on their way to Rome and then to other western countries, and the radical Islamic Syrian mercenaries consider Libya as a stopover for them to go to Italy.
121. According to a report published by the "European Center for Counterterrorism and Intelligence Studies" (ECCI) June 16<sup>th</sup>, 2020, there is a consensus on the seriousness of the Turkish presence on the southern border of the European Union. The Turkish military occupation in Libya threatens Europe's economic interests in the region, and also poses a threat to the civilian political situation in countries where the political Islamic groups supporting Erdogan are mainly deployed: "There is a consensus among experts and scholars that one of the aims of the Turkish military incursion is to empower the Muslim Brotherhood in Libya and the Maghreb, and to provide logistical and military support to other militant groups in the region." Turkey has also extended its areas of control and influence in the eastern Mediterranean to provide new energy resources to Ankara<sup>83</sup>.
122. In this regard, Fawzi Ammar, the Libyan expert, warned that the influx of mercenaries and extremists into Libya exacerbates the problem of illegal migration and infiltration of terrorists in Europe on the coasts of the countries from the south of the Mediterranean. He added that the rise of violence and terrorism in the region would be the natural result of the Turkish military escalation and the hijacking of the extremist base of Idlib in northern Syria towards Tripoli, the capital of Libya<sup>84</sup>.

#### **Part 4: Increasing international warnings and initiatives to address the spread of terrorism and the transfers of mercenaries from Syria to Libya**

123. The UN officials, regional organizations and Member States expressed their fear and criticism about the spread of terrorism and the transfer of Turkish mercenaries from Syria to Libya. They specifically warned about the threat of a new force of foreign mercenaries containing extremist elements, like those that previously destabilized Afghanistan and Iraq, which rises a long-term issue for the region and the world.

## **First: United Nations' perspective and initiatives about the spread of terrorism and the transfers of mercenaries from Syria to Libya:**

124. The United Nations repeatedly denounced and condemned the flow of arms and foreign fighters into Libya. Although the United Nations recognized the government of National Accord, it accused of relying on a large number of militias, including Islamic and terrorist groups, formed in the 2011 uprising against and after the former dictator Muammar Gaddafi. The United Nations confirmed Turkey's role in supporting the extremist elements of the Libya Dawn alliance, and the fact that Qatar maintains its relations with Abdelhakim Belhadj.
125. According to a press release from the **Working Group on the use of mercenaries** on June 17<sup>th</sup>, 2020, while the UN Working Group noted that “both the Government of National Accord (GNA) and the LNA have relied on third-country nationals to support military operations, including Russian private military personnel, and Syrian, Chadian and Sudanese mercenaries” it express particular concerns about the fact that “Turkey has engaged in large-scale recruitment and transfer of Syrian fighters to take part in hostilities in support of the GNA. “These fighters were recruited through armed factions affiliated with the Syrian National Army that have been accused of serious human rights abuses in Syria,” Chris M. A. Kwaja (Chair of the working group on the use of mercenaries) said. Thousands of Syrian men, including boys under 18 years, have reportedly been sent to Libya via Turkey in recent months<sup>85</sup>.
126. On June 17<sup>th</sup>, 2020, the Working Group on the use of mercenaries and a number of other mandate holders called for an investigation into violations related to mercenary activities: “We urge the Governments concerned to investigate all allegations of human rights violations and abuses committed or facilitated by such actors, to hold perpetrators accountable, and to provide access to effective remedies for victims.” They also called for an immediate halt to the recruitment, financing, and deployment of mercenaries in Libya: “The deployment of mercenaries to Libya only adds to the multitude and opacity of armed groups and other actors operating in a context of impunity.” Moreover, the statement expressed the UN experts’ concern about the recruitment of children as mercenaries fighting in the conflict: “We are concerned that these children come from an extremely vulnerable social and economic situation and are being exploited for the purpose of recruitment as mercenaries.” Finally, the Working Group expressed concern about the use of foreign fighters in a more alarming form during the Coved-19 pandemic: “Sending them to a conflict zone shows complete disregard for the health and safety of the Libyan civilian population that has been left behind severely ill-prepared for the health crisis.”<sup>86</sup>
127. **The Secretary General of the United Nations (SG)** has repeatedly expressed concerns about “the presence of foreign fighters and mercenaries being employed by parties to the conflict in Libya as well as by the influx of weapons to the country”. In 2019, he reminded that “the full implementation of the arms embargo is paramount for the protection of civilians and the restoration of security and stability in Libya and the region”. (...) He also noted “Islamist extremists, particularly those associated to ISIL, continued to exploit

the fragmentation in Libya, its open land borders and the persistent weakness of State institutions. The organization has used remote areas of central and southern Libya for training, recruitment and the preparation of attacks”<sup>87</sup>.

128. In 2020, the SG reported stated in its reports on Libya: “The dangers and direct consequences of foreign interference are increasingly evident. To increase the number of fighters, there has been growing involvement of mercenaries. The presence of such professional fighters has been linked to an escalation in violence. (...) In addition, there have been persistent reports of the growing involvement of foreign mercenaries providing both sides with enhanced combat capabilities.”<sup>88</sup>
129. At the opening of the 55<sup>th</sup> AU Summit, the Secretary General reiterated his view that “we increasingly need peace enforcement and counter-terrorism operation implemented by the African Union and supported by the UN.” “It is obvious for the G5 Sahel today, but also for the larger coalition, that we will have to build to beat terrorism in Africa. The lack of support of the international community is clear today in the Sahel and Lake Chad. “The whole region has been imperiled by terrorism”, said Mr. Guterres, against the backdrop of rising extremist violence and transnational crime across the vast, porous borders of the Sahel region. “Thousands have been killed and countless more continue to suffer. In Burkina Faso, Mali and Niger, the increasing number and complexity of terrorist attacks on both civilian and military targets demonstrate the need for a more robust and integrated response with a focus on cross-border issues.”<sup>89</sup>
130. On January 6<sup>th</sup>, 2020, the **UN Secretary-General's Special Representative in Libya**, Ghassan Salameh (the UN Support Mission in Libya) and the new UN Special Envoy to Syria, Geir Pedersen, denounced the transfer of Syrian fighters allied with Turkey to Libya. Ghassan Salameh stated to the media: " There is enough weapons in Libya, they don't need extra weapons. There are enough mercenaries in Libya, so stop sending mercenaries as is the case right now, with hundreds or thousands right now coming into the country of late.”<sup>90</sup>
131. On February 3<sup>rd</sup>, 2020, the **5+5 Libyan Joint Military Commission** started its meeting under the auspices of the United Nations in Geneva. Five senior officers appointed by the Government of National Accord (GNA) and five senior officers appointed by the Libyan National Army (LNA) are participating in the talks, which are moderated by Ghassan Salamé, Special Representative of the United Nations Secretary-General and Head of the United Nations Support Mission in Libya.<sup>91</sup>
132. In results of four round of negotiation hold since February, within the framework of the 5+5 Joint Military Commission (facilitated by the UN on the basis of Security Council resolution 2510 and 2542), an agreement for a successful and lasting ceasefire was negotiated in October 2020. UNSMIL chief, and Acting Special Representative, Stephanie Williams said that this agreement could help secure “a better, safer, and more peaceful future for all the Libyan people”, even though “much work ahead in the coming days and weeks to implement the commitments contained in this agreement”. The SG added “There

is no military solution for the conflict in Libya. This ceasefire agreement is a critical step. There is much hard work ahead”.<sup>92</sup>

133. The **Acting Secretary-General's Envoy to Libya**, Stephanie Williams, warned that “We continue to witness an alarming military build-up as a result of the uninterrupted dispatch by the foreign backers of increasingly sophisticated and lethal weapons, not to mention the recruitment of more mercenaries to both sides of the conflict.” In an open video session of the Security Council, on May 19<sup>th</sup>, 2020, she warned that Libya is at a crossroads, and that the war will intensify, expand and deepen: “As we survey the carnage wrought by almost 15 months of unrelenting violence in Libya, I believe we have reached another turning point in the conflict. From what we are witnessing in terms of the massive influx of weaponry, equipment and mercenaries to the two sides, the only conclusion that we can draw is that this war will intensify, broaden and deepen with devastating consequences for the Libyan people. As the foreign intervention increases, the Libyans themselves are getting lost in the mix, their voices crowded out. We must not let Libya slip away. We must enable responsible Libyans to write their own future”.<sup>93</sup>
134. In its resolution 2510 (2020), adopted on February 12<sup>th</sup>, 2020, the **Security Council** expressed “concern over the growing involvement of mercenaries in Libya, recalling its resolution 2213 (2015) and mentioning that the situation in Libya continues to constitute a threat to international peace and security.”<sup>94</sup>
135. In 2017, the United Nations Security Council stressed in Resolution 2368 the importance of strengthening international cooperation in the fight against terrorism, including recalling UN Security Council Resolution 2322. It also reiterates the need to implement without delay the other relevant resolutions relating to ISIL, Al-Qaeda and individuals, associated groups, companies and entities, in particular provisions relating to the prevention and impact of the financing of acts of terrorism, and the duty of States to refrain from providing any form of support, active or passive, to entities or persons involved in acts of terrorism, including by cracking down on the recruitment of members of terrorist groups.<sup>95</sup>
136. In 2011, the **Security Council Sanction Committee** was established pursuant to resolution under sanctions measures in Resolution 1970 (2011) concerning Libya, in order to oversee measures imposed by the Security Council. Sanction measures include an arms embargo, a travel ban and a freeze of assets. The arms embargo is binding on all Member States, which are required to refrain from selling or supplying Libya with arms and related materials, and to prohibit the export of any weapons or associated materials. After 2011, pursuant to paragraphs 2 and 4 of resolution 2368 (2017)<sup>96</sup>, the Sanctions Committee of the Security Council included the Libyan branch of ISIL the Sanctions List on March 4<sup>th</sup>, 2020, as an entity " Associated with Islamic State in Iraq and the Levant, listed as Al-Qaida in Iraq (QDe.115)."<sup>97</sup>
137. The annual report of the **UN Panel of Experts on Libya** revealed in its annual report, which covered the period from September 5<sup>th</sup>, 2018 to October 20<sup>th</sup>, 2019, Turkey's

involvement in supporting Tripoli militias and terrorist groups with weapons and military equipment<sup>98</sup>.

## **Second: Interstates cooperation and initiatives to resolve the issue of transfer of mercenaries from Syria to Libya.**

138. On July 16<sup>th</sup>, 2019, the governments of Egypt, France, Italy, the United Arab Emirates, the United Kingdom, and the United States released a joint statement on hostilities in Tripoli: “We note our deep concerns about the ongoing attempts by terrorist groups to exploit the security vacuum in the country, and call on all parties to the Tripoli conflict to dissociate themselves from all terrorists and individuals designated by the UN Sanctions Committee, and renew our commitment to see those responsible for further instability hold accountable.”<sup>99</sup>
139. Germany brought together international and regional parties to resolve the Libyan crisis through an international conference, in cooperation with the United Nations. On January 19<sup>th</sup>, 2020, the Berlin Conference was held at the initiative of 11 countries (China, France, Russia, the United Kingdom, the United States, Egypt, the United Arab Emirates, Italy, Congo, Turkey and Algeria). The participants stressed that the conflict in Libya allowed al-Qaeda and ISIS to flourish in the Libyan territories, by carrying out operations inside the country and in neighboring countries. Thus, the participating countries called for the implementation of Security Council Resolution 2368 and other relevant resolutions. In particular, they:
  - urged to respect the provisions on the travel ban and the freezing of funds, financial assets and other economic resources of designated individuals and entities without delay, and
  - stressed the importance of strengthening cooperation to counter the threat of foreign terrorist fighters in accordance with UN Security Council Resolution 2322.
  - emphasized to withdraw the mercenaries and foreign terrorist fighters and to dismantle militias as a first step towards the peace.
140. The Commissioner of the **African Union** for Peace and Security warned the importance of curbing terrorism in Libya, halting the transfer of mercenaries and foreign terrorist fighters and dismantling militias in that country, and reminded the commitments made in Berlin, which included stopping all support and withdrawing all armed mercenaries<sup>100</sup>.
141. In 2011, the African Union (AU) established a High-Level Committee on Libya. In their last meeting in May 2020, the contact group of the Committee “reiterated its support for the Conclusions of the Berlin Conference.” However, it noted with regret that the commitments made at that Conference have neither been respected nor implemented. Continued fighting, the flow of new weapons and the massive and continuous recruitment of mercenaries are eloquent evidence of this. The Contact Group reiterated its firm condemnation of the continued foreign interference and called upon the United Nations Security Council to assume its responsibilities for the strict respect observance of the arms embargo, the end of external interference and the imposition of an immediate ceasefire on the belligerents. The Contact Group also called upon the countries interfering in the

internal affairs of Libya to desist from doing so. The Contact Group reaffirmed the need to combat terrorism in Libya, in all its forms and manifestations, in accordance with the UN Charter; international law and the relevant UN Security Council Resolutions; as well as the OAU Convention on the Prevention and Combating of Terrorism (1999), the 2004 Protocol and the 2002 Plan of Action. The Contact Group calls on all parties to disassociate from the UN-listed terrorist groups and to refrain from supporting, financing or transporting them to Libya in order to take part in the ongoing conflict.”<sup>101</sup>

142. On June 30<sup>th</sup>, 2020 in Nouakchott, **the leaders of the five Sahel countries** expressed concern about the threat of the expansion of terrorism in the region, particularly towards Côte d'Ivoire, pointing out the need for urgent and strong collective action to eradicate this phenomenon. They thereby stressed the need to intensify the fight against terrorist groups on all fronts, calling for continued implementation of the Road Map and the Joint Force Action Plan in the Sahel. They also urged to provide more military support for a comprehensive fight against terrorism in the Sahel region. <sup>102</sup>

In the statement issued on June 23<sup>rd</sup>, 2020 at the **Arab Foreign Ministers Council**, the foreign ministers of the Arab League’s States condemned all forms of foreign military interference in Libya “in accordance with the clear and firm resolutions of the Arab League Council in this regard, especially broader regional interference in the internal affairs of Arab states.” They rejected any military solution, which they said would not make any party win or achieve peace on Libyan soil. The participants considered that any arrangements for a cease-fire will only succeed if there are clear commitments to expel foreign mercenaries from the country. They underscored the importance of disbanding armed militias operating outside of the state’s authority. The meeting participants also called for the resumption of a serious political dialogue between the Libyans themselves under the sponsorship of the United Nations. In this context, they welcomed the Cairo Declaration on Libya issued on June 6<sup>th</sup>, 2020 and stressed that the constructive and detailed proposals in the Cairo Declaration had broad Arab, regional, and international backing<sup>103</sup>.

143. On August 22<sup>nd</sup>, 2020, the High Representative Josep Borrell stated on behalf of the **European Union**: “We fully support the agreement around the principles to immediately cease all military activities across Libya, requiring the departure of all foreign fighters and mercenaries present in Libya, and to resume the negotiating process in the framework of the UN-led Berlin process. We now urge all the Libyan parties, and all those supporting them in any form, to translate these principles into concrete actions on the ground, leading to a permanent ceasefire, as part of the discussions within the 5+5 joint military committee and to relaunch the political process.”<sup>104</sup>
144. On October 23<sup>rd</sup>, 2020, the 5+5 Joint Military Committee signed a permanent Ceasefire Agreement to withdraw all mercenaries and foreign terrorist fighters from Libyan territories by land, air and sea within a three month period of signing the agreement.



### **Third: States' perspectives and initiatives to address the issue of transfer of mercenaries from Syria to Libya**

145. **Algeria:** In July 2020, in an interview with France 24, Algerian President Abdelmadjid Tebboune warned that Libya is in danger of becoming a terrorist sanctuary: "A few months ago I said that if we do not get a ceasefire to rebuild a State on popular legitimacy bases, we risk of having the Libyan scheme transposed to Libya, and we are there, it's the same actors, the same methods. The good thing for Libya is that the Libyan tribes have remained wise, it is much more than mercenaries. Exasperated, the Libyan tribes risk defending themselves, entering self-defense, and thus arming themselves. At that time, it will not be the Syrian pattern anymore but the Somali pattern. Libya risks becoming a "terrorist sanctuary", where everyone will get rid of their own terrorists and send them to Libya and enslave the country." "It is not the ebb and flow of weapons that will solve this problem, let's go towards the definitive solution that is consulting the population through its tribal or other organizations, organizing elections through transitional institutions if necessary. The current government is one of them, but it is outdated. We need to get back to this, but much more broadly for the whole of Libya."<sup>105</sup>
146. **Egypt:** According to the Egyptian President, restoring security and stability in Libya is part and parcel of Egypt's security and stability, as well as of the Arab national security.<sup>106</sup> Indeed, according to an article by "Arab News" published on July 10<sup>th</sup>, 2020, the restoration of the Libya's state institutions is extremely important to achieving stability, which Egypt has sought since the beginning of the conflict, as it has always used the slogan: "The security of neighboring countries is an extension of Egypt's security." Stability in Libya means greater stability in Egypt, especially as their shared border has been a route for smuggling weapons and terrorists into Egypt.<sup>107</sup>
147. On July 8<sup>th</sup>, 2020, Egyptian Foreign Minister Sameh Shoukry confirmed the Egyptian position and warned that "regional powers are intervening in Libya, threatening the stability of the Middle East and Mediterranean. Militias in Libya are seeking to carry out their agendas at the expense of the Libyan people".<sup>108</sup>
148. In June 2020, Egyptian President Abdel Fattah al-Sisi launched a new plan to resolve the Libyan crisis called the Cairo Declaration. President Sisi said that this Cairo Declaration is a message to the world and expressed a firm desire to enforce the Libyan people's wish and goals of stability and development, to preserve the country's sovereignty and to put its interests first and foremost. This plan includes:
- a 48-hour ceasefire throughout the Libyan territories,
  - dismantling militias and handing their weapons over to the LNA,
  - expelling foreign mercenaries out of the country, and
  - resuming the 5+5 Libyan Joint Military Commission under the auspices of the UN.
  - demanding for fair representation from all three Libyan regions within their administration of governance,
  - holding fair elections without the interference of any militia, and
  - launching a constitutional declaration regulating the country's political process.<sup>109</sup>

149. President Al-Sisi highlighted that the Cairo Declaration was consistent with all international resolutions and initiatives, in particular, with the efforts of the United Nations and the outcomes of the Berlin Conference. "Egypt looks forward to the cooperation of all nations in supporting this step towards Libya's strong return to the international community."
150. Although moderate Libyan parties and regional and international actors have welcomed the Cairo Declaration, the ceasefire was not implemented. According to the Egyptian President: "The control over the decision of one of the parties to the conflict by external forces, which strongly support extremist militias and mercenaries, did not allow the ceasefire resolution to be put into effect, but prompted further violation of international resolutions and the violation of the sovereignty of the Libyan state by transferring arms and mercenaries."<sup>110</sup>
151. Egypt's army has never been a proponent of aggression, but it works on protecting the country's borders and airspace, as well as providing support to Arab States given that the Egyptian national security is part and parcel of the Arab national security, Sisi stressed. The Egyptian army and people call for peace and settling all crises through political paths in line with international resolutions. At the same time, this does not mean that Egypt surrenders to hostile powers, terrorist militias and mercenaries that pose a threat to regional and international security and peace, he added.<sup>111</sup>
152. **France:** On January 19<sup>th</sup>, 2020, French President Emmanuel Macron called at the Berlin Conference to "stop" sending pro-Turkish Syrian mercenaries to Libya to support the Tripoli government.
153. On January 29<sup>th</sup>, 2020, following a meeting with Greek Prime Minister Kyriakos Mitsotakis, Macron warned about the fact that "these past few days we have seen Turkish warships accompanied by Syrian mercenaries arrive on Libyan soil. He denounces it as a "serious and explicit infringement of what was agreed upon in Berlin."<sup>112</sup>
154. Earlier, French President Emmanuel Macron accused Turkey of worsening the situation in Libya, saying in press statements that his Turkish counterpart did not respect his talk about ending the intervention in the Libyan crisis, particularly the failure because of the continued convey of Turkish ships carrying mercenaries to fight alongside the militias of the GNA<sup>113</sup>.
155. As reported by "Egypt Today" on July 13<sup>th</sup>, 2020, French Defense Minister Florence Parly told the press that Turkey brings large numbers of Syrian mercenaries into Libya, and it is documented by the United Nations. She condemned the arms embargo violations committed by foreign powers calling for a political solution as mandated by Berlin Conference. She added that her country does not back a specific party in Libya. Nevertheless, she pointed out that Commander-in-Chief of the Libyan National Army (LNA) Khalifa Haftar played a massive role in deterring the Islamic State (IS) in Libya.<sup>114</sup>

156. In August 2020, Reuters reported that Macron had repeatedly demanded to further the EU sanctions against Turkey. France and Turkey almost blew in June after a French warship attempted to inspect a Turkish vessel as part of the UN arms embargo for Libya. "I don't consider that in recent years Turkey's strategy as the strategy of a NATO ally ...when you have a country that attacks the Exclusive Economic Zones or the sovereignty of two members of the European Union," Emmanuel Marcon said, describing Turkey's actions as provocations<sup>115</sup>. "I have already had the opportunity to say very clearly to President Erdogan, I consider today that Turkey is playing a dangerous game in Libya and is breaching all the commitments it took during the Berlin Conference," he said<sup>116</sup>. According to "AP news", these tensions can be explained by the fact that Turkey supports the weak UN-recognized GNA, led by Prime Minister Fayeze Sarraj, while France backs a rival government in the east aligned with the self-styled Libyan National Army, led by General Khalifa Hifter.<sup>117</sup>
157. **Jordan:** On January 13<sup>th</sup>, 2020, King Abdullah II of Jordan said in an interview with France24 that the transfer of nearly 1,000 pro-Turkish fighters to Libya makes the situation complicated, and everyone in the Arab region and Europe is facing it." The King Abdullah II called for a halt to Turkey's transfer of mercenaries from Syrian armed factions to Libya that are fighting alongside al-Wafaq militias in Tripoli. He also called to increase international warnings about the danger of the deployment of these fighters inside the Libyan territories, which could complicate the scene. "Turkey's transfer of troops to Libya will lead to further confusion." He added that earlier this month: "Several thousand fighters left the Syrian Idlib region across the northern border with Turkey and ended up in Libya. "The influx of these fighters into Libya is expected to be one of the biggest threats the world will face in 2020" he said.<sup>118</sup>
158. Jordan is also committed to fighting against terrorism in the region through cooperation with NATO: in January 2020, NATO Secretary-General Jens Stoltenberg stated in a meeting with King Abdullah II bin Al Hussein of the Kingdom of Jordan "I think all the turmoil we see in the region, you are an island of stability in that region and you were at the forefront of fighting terrorism and therefore we think that the partnership between Jordan and NATO is more important now because the fight against Daesh is not over and therefore we have to stand together."<sup>119</sup>
159. **Niger:** According to the United Nations in July 2020, Kalla Ankourao, Minister for Foreign Affairs, Cooperation, African Integration and Nigeriens Abroad of Niger, said that respect for sovereignty and territorial integrity continues to be severely tested in Libya, where external interference is fueling tensions and undermining international efforts to restore a Libyan-driven political process. The growing instability in the Sahel is due to the deplorable situation in Libya. All participants in the Berlin process must honor their commitments, refrain from interfering in Libya's internal affairs and enable the conditions for a humanitarian ceasefire. "It cannot be said enough: Libya does not need weapons; it does not need mercenaries; nor does it need to be the theatre for the expression of the will to power of certain international actors." What Libya needs is reconciliation, peace and prosperity, he said".<sup>120</sup>

160. In an interview with France 24, President Mahamadou Issoufou said: "The situation is of real concern, not only for Niger, but also for the other Sahel countries and in general for all the countries of Cédéao [Economic Community of West African States], including for the countries of the Lake Chad basin, where we are facing the threat of Boko Haram,". "Terrorists have strengthened, they have been able to have heavier and more efficient equipment, they have benefited from reinforcements in coaching for training. We are told about the transfer of terrorists from Syria, from Iraq via Libya, where unfortunately there is no state. What happened in Inates is the consequence of all this."<sup>121</sup>
161. **China:** On February 12<sup>th</sup> and January 30<sup>th</sup>, 2020 (during Security Council sessions 8722 and 8710), China warned that the international community must remain vigilant against terrorism in and around Libya, and stressed the need for the international community to work together and provide sustained efforts to combat terrorism and protect against the cross-border movement of foreign terrorist fighters in and around Libya<sup>122</sup>.
162. **Russian Federation:** The Russian Federation stated that Libya had become a haven for terrorists and foreign fighters and stressed the need for vigorous efforts to fight terrorism. During the Security Council's 8722 and 8710 sessions on February 12<sup>th</sup> and January 30<sup>th</sup>, 2020, Russia agreed that the international community must work together to protect against the cross-border movements of foreign terrorist fighters<sup>123</sup>.
163. **South Africa:** During these sessions of the Security Council meetings (8722 and 8710), the South African delegate stressed that the insecurity in the Sahel region is the result of instability in Libya. He denounced an influx of weapons from armed groups in neighboring countries in the region, which fuels the jihadist insurgency, and provoked the displacing of more than a million people. He stressed that this situation is threatening the African Union<sup>124</sup>.
164. **Tunisia:** The Libyan conflict is reflected in Libya's neighboring country, including Tunisia, where a sharp disagreement emerged between the Head of State and the speaker of parliament over the legitimacy of the Libyan Government of National Accord. The Tunisian expert on terrorism, Alia Allani, expressed further concern about the intervention of fighters from Syria, as it would prolong the war in Libya, allowing ISIS and al-Qaeda members to expand the security chaos, which could affect Libya's neighbors.<sup>125</sup>
165. The Parliament Member Safi stressed that Tunisia "should seek to establish itself in the coming period since the Libyan issue is directly related to all of the Arab Maghreb countries."<sup>126</sup>
166. On July 2<sup>nd</sup>, 2020, members of the Tunisian Parliament called for the Muslim Brotherhood as a terrorist organization. On July 24<sup>th</sup>, 2020, the Tunisian Parliament decided to hold a parliamentary plenary session to vote on a no-confidence list, which would withdraw the confidence of the Speaker of the Tunisian Parliament Rashid Ghannouchi and exclude the Renaissance Movement from any future government formation due to the Libyan crisis. The idea of the list came after it was confirmed that a number of Tunisian political leaders were involved in international organizations led by figures belonging to the Muslim

Brotherhood. Through supervising offices in Tunisia, these organizations can introduce foreign money to secure their activities, opening the door to laundering money and financing terrorism, which poses a threat to Tunisia's national security<sup>127</sup>.

167. USA: On February 12<sup>th</sup> and January 30<sup>th</sup>, 2020, at the Security Council, the Permanent Representative of the United States called for the dismantlement of extremist militias in Libya<sup>128</sup>.

168. On July 1<sup>st</sup>, 2020, the U.S. Government and representatives of the LNA met virtually for discussions on militia demobilization in Libya, in keeping with U.S. policy of active neutrality in Libya. The U.S. delegation stressed its opposition to all foreign interference in Libya and reaffirmed that armed groups that attempt to spoil the political process or engage in destabilizing acts must not be tolerated. On their side, the LNA delegation briefed the U.S. delegation on its proposals to make progress on security sector reform and disarmament, demobilization, and reintegration efforts. The two sides affirmed that all Libyans should enjoy the protection of capable and accountable security forces, free from the dangers posed by militias, non-state armed groups, and foreign fighters.<sup>129</sup>

## **Conclusion:**

169. The report concludes that:

- the manner in which fighters from Syria were recruited, transported, and used is consistent with the definition of a mercenary, as stipulated in Article 1 of the International Convention against The Recruitment, Use, Financing and Training of Mercenaries and Article 47(1) of the 1977 Additional Protocol I to the Geneva Conventions,
- ignoring the recruitment, transfer, and use of mercenaries from Syria to Libya is a violation of Articles 4 and 5 of the International Convention against The Recruitment, Use, Financing, and Training of Mercenaries.<sup>130</sup>

170. After having created several mandates to document this phenomenon on the use of mercenaries, we now have proof of a systematic pattern of recruitment, transfer, financing, and training of mercenaries from Syria to Libya. We have especially documented the involvement of Turkey in the large-scale recruitment, training, and transfer of Syrian mercenaries to Libya, to take part in hostilities in support of the GNA.

171. The report also concludes that the Muslim Brotherhood's activity is not only made Libya a safe haven for terrorist elements, such as ISIS, al-Qaeda and so on, but also to path the way for Libya to become a springboard for the transit of these fighters to the Sahel and Europe. Early observers predicted that ISIS would operate a new stage of its operations in the Lake Chad region due to its proximity to Libya, where funds money flow from Tripoli militias. ISIS and militant organizations in the region have already expanded their operations into the heart of Africa, to include seven countries in the Sahel region, among which six are the LDCs. These local networks of armed groups and mercenaries will create constraints and obstacles that will severally affect the stability of the region and sustainable development in the African LDCs, as well as the human rights situation in these countries.

172.If the international community remains silent on the transfer of the terrorist mercenary campaign from Syria to Libya, their deployment and positioning in Libya will not only pose an undeniable threat to peace, security and human rights in the country, but will lead to a catastrophic situation that would prolong the conflict and will threaten peace and security in the region and the world, particularly in the Sahel and Europe.

173.The awareness raised on this phenomenon should path the way to develop a plan of action to address this issue. Indeed, it is now essential to follow up on the mechanisms implemented especially by member States and the UN, and to reach constructive conclusions, which would lead international stakeholders to develop a road map detailing the steps and specific measures to implement in order to halt the recruitment and transfer of mercenaries.

174.In this context, it is essential that the Security Council takes urgent and immediate action to hold Turkey and the Government of National Accord accountable for breaches to international human rights law, international criminal law, and international humanitarian law committed by mercenaries, as evidence confirms that both Turkey and the Government of National Accord have exercised control over mercenaries.

175.This phenomenon requires the international community to address the threat posed by mercenaries and foreign terrorist fighters and to take decisive and immediate action to comprehensively address the underlying conditions leading to the spread of terrorism. This includes:

- countering violent extremism,
- preventing extremism to lead to terrorism,
- countering incitement to terrorism,
- preventing the recruitment of foreign fighters,
- preventing the travel of foreign terrorist fighters,
- cutting off financial support to foreign terrorist fighters,
- promoting political and religious tolerance,
- achieving economic development, social harmony and involving all,
- resolving armed conflicts.

176.As a result, IOLDCs expresses its commitment to remain seized on the matter and to further investigate and document how this phenomenon will jeopardize the implementation of the SDGs in the LDCs.

## **Recommendations:**

177.The International Organization for the Least Developed Countries recommends:

1. The Human Rights Council to call on the Government of National Accord and Turkey to stop the transfers of foreign fighters from Syria to Libya and to Qatar to stop financing extremist elements in Libya.

2. Human rights mechanisms to collect information and monitor the transfer and use of mercenaries and foreign fighters and to foster accountability for the violations of international law that result from this phenomenon. Especially, we recommend human rights bodies to engage dialogue with Qatar, Turkey; Libya, Syria, Chad, Sudan, and all the countries involved, and to make recommendations on how to address the issue and prevent further violations.
3. Activate early warning system of UN task forces based in Libya and the Sahel Region to monitor, document, and report on the issue of use and transfer of mercenaries and its impact on the stability on the ground, including by integrating information regarding human rights violations and violent extremism in early warning and analysis systems, in accordance with OHCHR's strategy on preventing violations and strengthening protection of human rights<sup>131</sup>.
4. The Independent Fact-Finding Mission on Libya (established by the Human Rights Council through resolution 43/39) to include in its investigation the impact of mercenaries activities and the recruitment and transfer of Syrian mercenaries to Libya, in the framework of its mandate of investigating violations and abuses of human rights throughout Libya.
5. The Working Group on the use of mercenaries to follow-up on the issue of the transfer of mercenaries and foreign terrorist fighters related activities and their impact on human rights violations and the exercise of the rights of peoples to self-determination.
6. The Security Council and its subsidiary bodies to follow-up with the implementation of Ceasefire Agreement that was signed on October 23<sup>rd</sup> by 5+5 Joint Military Committee to withdraw mercenaries and foreign terrorist fighters from Libya in a period of three months. Also, urges to dismantle extremist militias to pave the way for effective implementation of peace and stability and promotion of human rights and security in Libya and Sahel region.
7. The organizers of the United Nations peace talks to include the immediate withdrawal of mercenaries and foreign fighters from Libya, and the dismantling of extremist militias in Libya in the cornerstone of the peace negotiations, acknowledging that this is an essential condition for establishing lasting peace and stability in Libya and in the Region.
8. The United Nations Secretary-General and United Nations mechanisms and agencies to foster coordination and to adopt a holistic approach to this issue, including through the implementation of the SDGs, and increased cooperation between development, humanitarian, and human rights actors.
9. The international community to further support and encourage investigation and research on how this phenomenon will impact the situation in the LDCs and the implementation of the SDGs, especially to focus on the constraints and obstacles caused by chronic conflict situation in conflict-affected LDCs, which severely affects sustainable development in these countries.

10. The international community to work together to comprehensively address the underlying conditions leading to the spread of terrorism and the recruitment of foreign mercenaries, including by supporting efforts aimed at countering violent extremism, countering incitement to terrorism, promoting political and religious tolerance, achieving economic development, social harmony and involving all.



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**Annex**  
**Reference to international human rights law**

In connection with the above-mentioned allegations, 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 recall that both international humanitarian law and international human rights law continue to apply in a situation of armed conflict. Libya must respect its obligations under international human rights law with respect to individuals within its territory or subject to its jurisdiction and it remains under an obligation to take all appropriate diplomatic, economic, judicial and other measures to protect the human rights of the population living in the part of its territory that is outside its control.

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 ICCPR and international human rights law more generally to situations of armed conflict. Furthermore, in its General Comment 26 (CCPR/C/21/Rev.1/Add.8/Rev.1), the Human Rights Committee confirmed that State obligations under the ICCPR with respect to individuals within its territory continue to apply notwithstanding subsequent changes in government or territorial organization and control. The continued obligation to ensure respect for recognised human rights in relation to the population of the part of the State territory outside the effective control of the State has further been recognized in the practice of the Human Rights Committee and the Committee against Torture, among others.

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 Libya in 1970, 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 international 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 also enshrined in the UDHR (article 8) and the ICCPR (article 2(3)). It is further enshrined in the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and

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Serious Violations of International Humanitarian Law (General Assembly Resolution 60/147, Chapter II). In line with the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (ECOSOC resolution 1989/65 of 24 May 1989), there must be thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions (principle 9).

We would like to 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). This was reaffirmed by the Human Rights Committee specifically with respect to the right to life in its General Comment No. 36 (CCPR/C/GC/36, 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.

With respect to the treatment and protection of children in situations of armed conflict, the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, ratified by Libya in 2004, requires State parties to take all feasible measures to ensure that persons who have not attained the age of 18 years do not take direct part in hostilities, either as members of State armed forces (article 1) or on behalf of armed groups (article 4). To that effect, States are obliged to "take all necessary legal, administrative and other measures to ensure the effective implementation and enforcement [...] within its jurisdiction" (article 6(1)). Moreover States are required to make the principles and provisions of the Optional Protocol widely known (article 6(2)) and take all feasible measures to demobilise or otherwise release victims of such practices from service and, when necessary, accord them "all appropriate assistance for their physical and psychological recovery and their social reintegration" (article 6(3)). In addition, UN Security Council resolution 1261 (1999) identifies and condemns the recruitment and use of children in armed conflicts by States and non-State armed groups as one of the six grave violations committed against children in times of armed conflict.

Finally, we would like to recall that your Excellency's Government is a party since 2000 to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. Article 5 of this Convention prohibits State parties to recruit, use, finance or train mercenaries and shall make offences related to mercenarism punishable by appropriate penalties. The Convention also contains provisions outlining the responsibility of States to cooperate in preventing mercenary offences (Article 6) and implementing the Convention (Article 7); to take adequate measures to establish

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jurisdiction over mercenary offences committed in its territory (Article 9(1)(a)) and to either extradite or prosecute those suspected of mercenary offences found on the territory of the State (Articles 9, 10 and 12). Since 2005, your Excellency's Government is also party to the Organisation of African Unity Convention for the Elimination of Mercenarism in Africa which sets out the responsibility of State parties to "take all necessary measures to eradicate all mercenary activities in Africa" (Art 6).

Both instruments define a mercenary through 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.

The interplay between the recruitment and use of mercenaries and the right of peoples to self-determination was elaborated by the Human Rights Council in its resolution A/HRC/RES/42/9 of 2019. Invoking the Charter of the United Nations, this resolution condemned the threat posed by mercenary activities to the exercise of the right of peoples to self-determination (para. 9), called for criminal responsibility of those involved in the planning, ordering, recruiting, using, training and financing of such activities (para. 11) and urged States to ensure accountability in this respect (para. 12). Similar concerns were expressed by the General Assembly in its resolution A/RES/74/138 of 2019.