

Breaking legal action: Complaint filed in Moscow against Wagner paramilitary fighters, on behalf of Syrian victim

Questions and Answers

15 March 2021

What are the facts behind the case?

On 30 June 2017, a video recorded by unknown persons was published on the Internet, displaying a nearly two-minute long video showing several men speaking Russian and dressed in military uniforms violently beating an unarmed man. In 2019, new video footage surfaced online showing additional details of the event: in these new videos, the same man was being beaten, tortured, beheaded and his body was subsequently dismembered and set on fire. In early November 2019, the videos went viral on Twitter, and led to a thorough media investigation, in particular by the Russian daily Novaya Gazeta, which allowed the identification of the victim, a Syrian national, as well one of the suspects, identified as an alleged member of the Wagner Group, and to locate the place where the murder took place: in the vicinity of the al-Shaer gas facility, in Northern Syria.

Shortly after these media revelations, the Syrian Center for Media and Freedom of Expression (SCM) was contacted by the brother of the victim, who identified his relative in one of the videos, expressing his willingness to seek justice for the brutal death of his brother.

According to the victim's brother, in March 2017, the victim, Mohamad A. returned to Syria from Lebanon, where he had spent nearly a year to work in the construction field. He was arrested by the Syrian army upon his return and brought to a military base to undergo training in the northern suburb of Damascus. His brother was able to speak with him when he was still at the base. The victim informed his brother that he was going to be deployed in Homs and that he intended to defect from the Syrian army. He was never heard from again.

On what legal basis was the complaint filed in Moscow?

The complaint was filed before the Investigative Committee of the Russian Federation, in Moscow, pursuant to article 141 of the Criminal Procedure Code of the Russian Federation.

A previous attempt to compel the opening of a judicial investigation into the death of Mohamad A. was made in November 2019 by Novaya Gazeta, which submitted the content of their investigation and the article published on 20 November 2019 to the Investigative Committee. This request was ignored.

The complaint filed by Mohamad A.'s brother requests the initiation of an investigation into the murder of his brother, as well as the perpetration of possible war crimes, by the Russian suspect, alleged member of the Wagner Group identified by Novaya Gazeta.

Russian courts have jurisdiction over the case pursuant to Article 12 of the Criminal Code of the Russian Federation, which states that citizens of the Russian Federation who have committed crimes outside of the Russian Federation against interests protected by the Code "shall be subject to criminal liability in accordance with the Code, unless a decision of a

foreign state's court exists concerning this crime in respect of these persons.” “Servicemen of military units of the Russian Federation located beyond the confines of the Russian Federation shall bear criminal liability for their crimes committed on the territories of foreign states under this Code, unless otherwise stipulated by international agreements of the Russian Federation.”

What is the Wagner Group?

The so-called “Wagner Group”, an informal association of mostly Russian personnel under the “effective control” of the Russian Federation, has been active for several years in combat operations against military units and is known for committing grave human rights violations against civilians, at times with extreme cruelty. Indeed, it has carried out numerous attacks on civilian facilities and infrastructure in several countries, including armed attacks to capture gas and oil fields in Syria and targeting military units in Eastern Ukraine while fighting on behalf of the so-called Donetsk and Luhansk People’s Republics. Moreover, the group has actively participated in hostilities, or contributed to military operations and the training of fighters, in Libya, Sudan, and the Central African Republic. Although Russian law prohibits mercenaries, nor does it regulate private military companies, and despite the denial of the existence of the Group by Russian officials, the number of the Group’s members is at least 2,500, but may be up to 5,000 fighters.

The ambiguous legal status of the group under Russian law and the denial of factual links pointing to its complete dependence on the Russian authorities, is a way to shirk Russia’s international responsibility for the international crimes committed by Wagner’s members.

Why is this complaint important?

Syrian activists and victims of the atrocities perpetrated by all parties to the conflict in Syria have been working tirelessly since 2011 to obtain accountability.

Despite the gravity and scale of crimes perpetrated in Syria since the brutal repression of the March 2011 uprising that led to close to 10 years of conflict, there are limited avenues for victims and their families to obtain justice and redress. Syria has not ratified the Rome Statute and, despite attempts to obtain a resolution from the UN Security Council to refer the situation to the ICC, Russia and China’s repeated vetoes have prevented the ICC from opening an investigation on Syria.

With the path to the ICC blocked, and no real prospect of independent justice and accountability inside Syria, victims have turned towards other countries – such as Germany, Sweden, France and Spain – to investigate cases based on what is known as “extraterritorial” jurisdiction. Since 2012, Syrian lawyers, individuals and organisations, as well as international human rights organisations, have launched cases in these countries to obtain investigations on torture, crimes against humanity and/or war crimes charges.

While the first series of complaints aimed at denouncing the crimes committed by the Syrian regime, more recent work has focused on building cases against members of non-state armed groups involved in the perpetration of grave human rights violations against the Syrian population.

The responsibility of Russia, through its direct military involvement, as well as by outsourcing violence to the “Wagner Group,” has never been addressed by any court of law so far.

This first ever complaint filed by a Syrian victim, supported by human rights NGOs, before Russian courts, is an unprecedented attempt to fill the impunity gap and bring Russian suspects to account.

What happens next?

According to the Criminal Procedure Code of the Russian Federation, the Investigative Committee must respond to the complaint within three days from the date of the filing. However, that period could be extended to 10 days, and then to 30 days upon request by the assigned investigator. Our further actions will be in large part determined by the response, or lack thereof, of the Investigative Committee.