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Czech Foreign Fighters in the Ukrainian Conflict: Legal Aspects and Propagandist Use

Čeští zahraniční bojovníci v ukrajinském konfliktu: právní aspekty a využití v propagandě

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Abstract: This article deals with the phenomenon of Czech foreign fighters in the Ukrainian conflict, mostly from the point of view of the propagandist use and from the point of view of the Czech penal law. Both issues are interconnected, because according to the Czech law, service in foreign armies or in terrorist entities can be penalised. On the other hand, foreign fighters can be assessed as an important propagandist element and their participation in the conflict can strengthen the political position of the warring party. This tension between these legal impacts and the propagandist use creates the main theme of this article. The concept of hybrid warfare frames the current development. The author comes to the conclusion that the legal consequences pose only a limited obstacle for the propagandist use.

Abstrakt: Tento článek se zabývá fenoménem českých zahraničních bojovníků v ukrajinském konfliktu, a to především z hlediska využití v propagandě a z pohledu českého trestního práva. Obě témata jsou vzájemně propojena, protože podle českých zákonů může být působení v zahraniční armádě nebo v teroristických subjektech trestáno. Na druhé straně lze zahraniční bojovníky hodnotit jako důležitý prvek propagandy a jejich účast v konfliktu může posílit politickou pozici válčící strany. Toto napětí mezi právními dopady a propagandistickým využitím představuje hlavní téma tohoto článku. Koncepce hybridního válčení tvoří rámec aktuálního vývoje. Autor dochází k závěru, že právní důsledky představují pouze omezenou překážku pro propagandistické využití.

Keywords: Foreign Fighters; Propaganda; Radicalisation; Cyberspace; Czech Republic, Ukrainian Crisis.

Klíčová slova: Zahraniční bojovníci; propaganda; radikalizace; kyberprostor; Česká republika; ukrajinská krize.

INTRODUCTION

Foreign fighters are currently an important phenomenon of armed conflicts. Due to this reason, they are also a subject of research in security and strategic studies and inter-connected disciplines,¹ including the security law.² The Czech Republic has been facing the problem with foreign fighters in the Ukrainian conflict since 2014. The aim of this article is to analyse the propagandist use of Czech foreign fighters within the framework of hybrid warfare. This propagandist use is partially limited by legal penalisation of foreign fighters' activities according to the Czech law. An adaptation of propaganda of the warring parties and their allies to this situation (including manipulation of some information) is researched and explained in the article. The identification of the real scope of presence of Czech citizens in Ukraine is currently not possible due to lack of credible data, however, a general overview of this issue based on accessible sources will be included.

ANALYTICAL AND METHODOLOGICAL FRAMEWORK: FOREIGN FIGHTERS AS ACTORS OF HYBRID WARFARE

Foreign fighters on both sides of the Ukrainian conflict can be understood as actors of hybrid warfare in two dimensions. Firstly, due to their direct military involvement in the conflict, secondly due to their propagandist use. This "dual-use" is nothing new. The presence of foreign fighters in military forces served as a propagandist expression of international solidarity with the warring party many times. Mobilisation of new recruits was a subsidiary goal of such recruitment. The existence of international brigades on the Republican side during the Spanish Civil War between 1936-1939 can be mentioned as an example. It was propagated during this war and it is celebrated within leftist movements up to the present. The real situation in these units, though, can be different from their idealised image.³ On the other hand, criticism toward foreign fighters, who can be perceived as "bad guys" by the international or domestic audience, can be used in counter-propaganda. For example, brutal activities of the Islamic extremist foreign fighters

1 MALET, D. *Foreign Fighters. Transnational Identity in Civil Conflicts*, Oxford University Press, Oxford 2013, 9780199939459.

2 DE GUTTRY, A. - CAPONE, F. - PAULUSSEN, CH.: Introduction. In DE GUTTRY, A. - CAPONE, F. - PAULUSSEN, CH. (eds.): *Foreign Fighters under International Law and Beyond*. The Hague: Asser Press, 2016, pp. 1-8. ISBN: 978-94-6265-098-5.

3 BAXELL, R.: Myths of the International Brigades. *Bulletin of Spanish Studies: Hispanic Studies and Researches on Spain, Portugal and Latin America*. 2014 91 (1-2), pp. 11-24. ISSN: 1475-3839 (print), 1478-3398 (online).

during the Bosnian War in the 1990s encouraged the Serbian feeling that the Serbian engagement in this war had a “just cause”.⁴

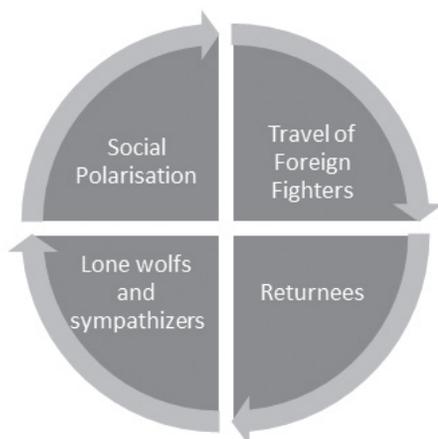
This propagandist perception can be researched also in the case of the conflict in eastern Ukraine. This conflict started in March 2014 and it is still ongoing, despite the second Minsk agreement about ceasefire from February 2015. Foreign fighters have been fighting on both sides of the conflict since its beginning.⁵ Several Czech citizens joined the separatist units as well as the Ukrainian nationalist units.⁶ The involvement of foreign fighters in the Ukrainian conflict is reflected in the media sphere, including new social networks.

Mass internet-based propaganda is an important element of the concept of the so-called hybrid warfare. Exact conceptualizing of this phenomenon is a subject of discussions in scientific and other expert circles.⁷ “The interconnection of propagandist, subversive, insurgent, paramilitary, espionage, energy manipulation, and similar activities, both within the traditional dimensions of security and in cyberspace”⁸ seems to be an important definitional element of hybrid warfare.

The war in eastern Ukraine is presented as a model form of the current hybrid warfare (including hybrid threats aiming at actors who are indirectly engaged in armed operations).⁹ The foreign fighters’ issue has not been discussed in the research on hybrid warfare up to now in a deeper way. However, this issue is immanently included in the media and the cyber-space dimension of this concept. Foreign fighters in the Ukrainian conflict create a specific threat to the West,¹⁰ including the Czech Republic.

The authors from the International Centre for Counter-Terrorism in the Hague divide the threat of foreign fighters into four categories described in the following chart:

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- 4 COPLEY, G. - MILETIC, D. - TRIFUNOVIC, D. Terrorism. Global Network of Islamic Fundamentalists - Part II - Modus Operandi - Model Bosnia. Banja Luka: The Republic Secretariat for Relations with the International Criminal Tribunal in the Hague and War Crimes Research, 2004.
 - 5 REKAWEK, K. Neither “NATO’s Foreign Legion” nor the “Donbass International Brigades:” (Where Are All the) Foreign Fighters in Ukraine? [online]. Warsaw: The Polish Institute of International Affairs, 2015, [cit. 2017-06-28, available at: https://www.pism.pl/files/?id_plik=19434
 - 6 MAREŠ, M. - VISINGR, L. 2015. Zahraniční bojovníci v soudobém ukrajinském konfliktu. *Politické vedy*. [online]. 2015, 18 (1), pp. 86-106. ISSN 1335-2741 [cit. 2017-06-18], available at: http://www.politickevedy.fpvmmv.umb.sk/userfiles/file/1_2015/MARES_VISINGR.pdf
 - 7 STOJAR, R. Vývoj a proměna konceptu hybridní války. *Vojenské rozhledy*. 2017, 26 (2), 44-55. ISSN 1210-3292 (print), 2336-2995 (online). [cit. 2017-06-18] Available at: <http://www.vojenskerozhledy.cz/selektivni-vyhledavani/kategorie-clanku/ozbrojene-konflikty/vyvoj-a-promena-konceptu-hybridni-valky>
 - 8 MAREŠ, M.: Increasing resilience of the Czech Republic to hybrid threats. In *Hybrid Warfare: A New Phenomenon in Europe’s Security Environment* [online]. 2nd edition. Praha - Ostrava: Jagello 2000, 2016. pp. 24-28. ISBN 978-80-904850-5-1 [cit. 2017-06-18], available at: http://data.idnes.cz/soubory/na_knihovna/A161212_M02_029_HH16_PP-EN-V1.PDF
 - 9 GALEOTTI, M. Hybrid War or Gibridnaya Voina? Prague: Mayak Intelligence, 2016, ISBN: 978-1-365-56541-0.
 - 10 MAREŠ, M.: Foreign Fighters in Ukraine: Risk Analysis from the Point of View of NATO. In REKAWEK, K. (ed.): Not Only Syria? The Phenomenon of Foreign Fighters in a Comparative Perspective. Amsterdam - Berlin - Washington: IOS Press, 2017, pp. 31-39. ISBN: 1874-6276 (print), 1879-8268 (online).



Source of the chart: REED, A. - POHL, J. - JEGERINGS, M.: The Four Dimensions of the Foreign Fighter Threat: Making Sense of an Evolving Phenomenon [Online]. The Hague: International Centre for Counter-Terrorism, 2017, p. 3. ISSN: 2468-0486 [cit. 19. 9. 2017], available at: <https://icct.nl/wp-content/uploads/2017/06/ICCT-Reed-Pohl-The-Four-Dimensions-of-the-Foreign-Fighters-Threat-June-2017.pdf>

This chart was elaborated mostly for the purposes of analysis of jihadist foreign fighters,¹¹ however, it can be useful also in the case of the Czech foreign fighters in the Ukrainian conflict. Still, the real scope of travelling, military presence and tactical importance of the Czech foreign fighters in the Ukrainian conflict is difficult to assess, mostly due to lack of trustworthy data. However, the image of these fighters and their propagandist use are possible and reasonable subjects of research, which can contribute to the understanding of the current hybrid threats. The sector of the social polarisation (see above) is researched in this article. The propagandist use of the military activities of foreign fighters as well as the propagandist use of their penalisation (as “martyrs”) are important drivers of social polarisation.

The first and main research question of this article is:

Q 1: How are the Czech foreign fighters in the Ukrainian conflict covered by various actors of the current media scene?

It is important to mention that the propagandist use is partially limited due to the legal situation of foreign fighters from the point of view of the Czech law. The threat and the reality of penalisation are also included in reports about these fighters. Because of this fact, the second research question is:

¹¹ REED, A. - POHL, J. - JEGERINGS, M.: The Four Dimensions of the Foreign Fighter Threat: Making Sense of an Evolving Phenomenon [Online]. The Hague: International Centre for Counter-Terrorism, 2017, ISSN: 2468-0486 [cit. 19. 9. 2017], available at <https://icct.nl/wp-content/uploads/2017/06/ICCT-Reed-Pohl-The-Four-Dimensions-of-the-Foreign-Fighters-Threat-June-2017.pdf>

Q2: How are the legal consequences of activities of the Czech foreign fighters in the Ukrainian conflict covered?

The simple hermeneutic phenomenological approach will be used¹² within the context of media analysis and legal analysis. Media analysis is based on content analysis. According to Davies and Mosdell, the identification of the “event-driven” is an important part of such analysis, in the sense of studying “the coverage of a particular event that occurs over a specific time period”.¹³ Activities related to the Czech foreign fighters in the Ukrainian conflict are researched in this article. A research set of media outputs was created based on the author’s long time-research (2014-2017). The outputs from the traditional Czech media scene, from the pro-Kremlin Czech media scene, from the Ukrainian national media scene and from the “Novorossian” media scene are represented. The target audience is an important criterion of this categorisation. Information about the Czech foreign fighters in the Ukrainian conflict will be categorised within the analytical framework based on this division of the media scene.

Important phenomena of media reporting will be identified and they will be analysed from the point of view of tension between the propagandist use and the relation to legal consequences. The findings will be subsumed under the strategic theory¹⁴ related to the hybrid warfare concept.

As necessary conditions for this research, a short overview of accessible information about the participation of the Czech foreign fighters in the Ukrainian conflict and a basic description of the Czech law will be included in the following chapters of the article.

PARTICIPATION OF THE CZECH FOREIGN FIGHTERS IN THE UKRAINIAN CONFLICT: A BASIC OVERVIEW

As mentioned above, currently available data are not fully sufficient for a comprehensive description of participation of the Czech foreign fighters in the Ukrainian conflict. However, they can serve as a basic overview of trends and as a presentation of some of the most important events associated with this participation. The triangulation of data is in some cases very difficult, because sometimes only one or two original sources confirm the particular events (for example, the death of Ivo Stejskal, see below).

This article is focused on ethnic Czech fighters (at least partially, from mixed marriages) with Czech citizenship on both sides of the conflict. Many Ukrainians living in the Czech Republic (including people with double citizenship) served in Ukrainian units or were for-

¹² KAFLE, N. P.: Hermeneutic phenomenological research method simplified, *Bodhi: An Interdisciplinary Journal*, 2011, 5 (1), 2011, 181-200, ISSN: 2091-0479.

¹³ DAVIES, M. M. - MOSDELL, N.: *Practical Research Methods for Media and Cultural Studies: Making People Count*. Edinburgh: Edinburgh University Press, 2006, p. 101 ISBN: 100-7486-2184-9.

¹⁴ YARGER, H.: *Strategic Theory for the 21st Century. The Little Book on Big Strategy [online]*. Carlisle: Strategic Studies Institute, U.S. Army War College, 2006, p. 2. ISBN 1-58487-233-0 [cit. 2017-06-26], available at: <http://www.comw.org/qdr/fulltext/0602yarger.pdf>

ced to serve in these units (some of them rejected to accept military call to active duty on the frontline).¹⁵ On the other side of the front, at least one case of an ethnic Russian fighter with Czech citizenship was reported.¹⁶ Some other former separatist fighters from the post-Soviet republics (a. o. Belarus) are working on the Czech territory. Unclear is the participation of several Ruthenes from the Czech Republic in separatist units.¹⁷

The primary goal of this article is focused on fighters who declared their voluntary motivation for participation in the conflict and who are directly involved in battle operations. Battle or military operations do not include mass riots (as in Maidan or in Odessa) or isolated violence without direct links to the frontlines (for example, clashes between pro-Novorossian and Ukrainian activists in Prague).¹⁸

However, if we want to analyse the participation of foreign fighters on the Ukrainian side, the riots in Maidan at the turn of 2013/2014 are important for understanding these phenomena. Militant clashes in Kiev and other Ukrainian cities were connected also with the rise of right-wing extremist groupings (among others, the Right Sector - PS or the Social National Assembly - SNA). These groupings were supported by a part of the Western right-wing extremist scene, including neo-Nazis from the Czech Republic. According to Czech authorities, at least one group of neo-Nazi football hooligans travelled to Kiev in February 2014 to participate in clashes with political opponents.¹⁹

This “ethos of Nazi Maidan fighters” created conditions for the later engagement of “real” Czech foreign fighters in Ukraine. Their number is assessed around 5 persons²⁰ and they came mostly from the Czech neo-Nazi scene. Some of them served in the Azov Battalion, later renamed to the Regiment of special purpose “Azov”. In June 2015, one Czech citizen joined the Azov training camp, however, he left it after several hours (due

15 GINTER, J. Ukrajinci v Česku odmítají přebírat doporučenou poštu, nechtějí do války [online], Novinky 2014-09-14 [cit. 2017-06-26], available at: <https://www.novinky.cz/domaci/348109-ukrajinci-v-cesku-odmitaji-prebirat-doporucenou-postu-nechteji-do-valky.html>

16 According to the sever HlídacíPes.org It is Kirill Belyakov, with permanent residence in Russian town Perm. He was a director of the Médea Public Relations agency. MIKEL, J. Další Čech ve válčicím Donbasu. S kalašnikovem a v uniformě se tam fotil bývalý ředitel Médea PR [online]. HlídacíPes.org, 2017-06-09, [cit. 2017-06-26], available at <http://hlidacipes.org/dalsi-cech-ve-valcicim-donbasu-s-kalasnikovem-a-v-uniforme-se-tam-fotil-byvaly-reditel-medea-pr/>

17 Only fighters from Slovakia, Poland, Hungary and Ruthenia allegedly served in the battalion I. G. Kundri in 2014 in Donbass. РЕСПУБЛИКА ПУДКАРПАТСЬКА(ПОДКАРПАТСКАЯ) РУСЬ: Русины-добровольцы на защите Новороссии [online], Vkontkate 2014-09-13 [cit. 2017-06-26], available at: <https://vk.com/public67712004>

18 MAREŠ, M. Impact of Contemporary Ukrainian conflict on Violent Extremist Scene in EU Countries [online]. In HELLBACH, M. - KEMMESIES, U. (ed.): The Annual EENeT Conference 2014 and the succeeding Subgroup Meeting in March 2015 are part of the project. EENeT RAD 2014-2016 - Focusing Radicalisation June 2014 - Mai 2016, Bundeskriminalamt, Wiesbaden 2015 [cit. 2017-06-26], available at: <https://www.bka.de/EENeT/EN/JournalEWPS/EWPS003.html?nn=55478>

19 MINISTRY OF INTERIOR OF THE CZECH REPUBLIC, Report on extremism in the territory of the Czech Republic in the year 2014 [online], Prague, MVČR, 2015 [cit. 2017-06-27], available at: <http://www.mvcr.cz/mvcren/file/report-on-extremism-2015-pdf.aspx>

20 LEGIEC, A.: Profiling Foreign Fighters in Eastern Ukraine: A Theoretical Introduction. In REKAWEK, K. (ed.): *Not Only Syria? The Phenomenon of Foreign Fighters in a Comparative Perspective*. Amsterdam - Berlin - Washington: IOS Press, 2017, pp. 32-30. ISBN: 1874-6276 (print), 1879-8268 (online).

to hard drill and due to his fear of real war). At least one fighter was a member of the “Right Sector” Volunteer Ukrainian Corps in 2015.²¹ In 2015-2016 these fighters, step by step, left Ukraine.

A larger Czech contingent served (or is still serving) in the armed forces of the Donetsk People’s Republic (DNR). The number of these foreign fighters is assessed around 15 persons²² (some assessments are higher - around 20 persons).²³ The first Czech volunteers joined the separatist forces relatively early after the start of the armed conflict in Donbass, in spring 2014. Ivo Stejskal, former basic school teacher from the town Brno, held a speech to workers in Donetsk on the 18th June, 2014. He tried to mobilise the public in Donbass to fight against the regime in Kiev. Stejskal left Brno several weeks before this speech and joined the separatist Vostok Battalion. This speech was broadly covered by domestic and foreign media.²⁴

On the 14th August, 2014, Ivo Stejskal and another Czech foreign fighter - Vojtěch Hlinka²⁵ - were killed during an operation near the village Mijusinck. The Czech citizen living in Russia Oldřich Grund (allegedly cousin of Vojtěch Hlinka), who also served in the separatist units, reported about the circumstances of their death in September 2014.²⁶ Grund served as a commander of the armed vehicle 2S9 Nona in the 1st Slavjansk Brigade of the DNR. He was awarded “Hero of Novorossia” on the 5th August, 2014 and received a knife with dedication from the separatist commander Igor Strelkov Girkin.²⁷

In 2014-2015, several cases of Czech fighters on the separatist side were reported. In June 2015, establishing of the Czech-Slovak unit within the International Brigade 15 of the separatist forces was announced (this unit used the tradition of the International Brigade of the same number from the Spanish Civil War). This Czech-Slovak group originally consisted of 10 persons and it started recruiting new members at its own Facebook profile.²⁸

²¹ Interview with a member of the Czech security community, 2016.

²² Ibid.

²³ LEGIEC, A., p. 27-28.

²⁴ EHL, M. - SOUČKOVÁ, M.: VIDEO: Přijel jsem vás bránit, říká Čech na demonstraci ukrajinských separatistů v Doněcku [online]. Ihned, 2014-06-19 [cit. 2017-06-29], available at: <http://zahranicni.ihned.cz/evropa-slovensko/c1-62384280-video-prijel-jsem-vas-branit-rika-cech-na-demonstraci-ukrajinskych-separatistu-v-donecku>

²⁵ Vojtěch Hlinka (born 1967) was a former husband of the widow after famous Czech ice hockey coach Ivan Hlinka. He held the surname of the former husband. He was unemployed with huge debts in the Czech Republic. According to Czech newspapers, he got married again in Ukraine. BLÁHA, E. - URBANOVSKÁ, J. - IMK: Čech Vojtěch, který padl za Putina: Žil s exmanželkou Hlinky a vzal si jeho jméno! [online], Blesk, 2014-09-04 [cit. 2017-06-30], available at: <http://www.blesk.cz/clanek/zpravy-krize-na-ukrajine/272353/cech-vojtech-ktery-padl-za-putina-zil-s-exmanzelkou-hlinky-a-vzal-si-jeho-jmeno.html>

²⁶ TN.CZ - GARKISCH, D.: EXKLUZIVNĚ: Svědectví o smrti dvou Čechů na Ukrajině! [online], 2014-09-06 [cit. 2017-30-06], available at <http://tn.nova.cz/clanek/zpravy/zahranici/exkluzivne-svedectvi-o-smrti-dvou-cechu-na-ukrajine.html>

²⁷ SAVE DONBASS: Oldřich Grund..Občan ČR..Vyznamenaný hrdina Novoruska [online], Youtube, 2014-08-06 [cit. 30-06-2017], available at: https://www.youtube.com/watch?v=b_9dOSmTgZ0

²⁸ PETROVIČ, J.: V separatistickej armáde na Ukrajině založili česko-slovenskou jednotku. Hovorili sme s nimi [online], Aktuality.sk, 2015-06-08 [cit. 2017-30-06], available at <https://www.aktuality.sk/clanok/277366/exkluzivne-v-separatistickej-armade-na-ukrajine-zalozili-cesko-slovensku-jednotku-hovorili-sme-s-nimi/>

Alleged Czech members of this unit, among others, included Martin Soukup (captain of the Czech army in reserve, major of the DNR army), Jiří Urbánek (a.k.a. Begemot, from a mixed Czech-Russian marriage, some sources identified Robin Urvany as Begemot's true name²⁹) and Pavel Botka (a. k. a. Kavkaz, from a mixed Chechen-Czech marriage). Slovak members were Martin Sojka Kepřta, Richard Branický and Mario Reitman, with unclear participation of Michal Böhm and Štefan Potocký (they may have served in other separatist units).³⁰

However, the real activity of this unit is questionable. According to the information of Slovak and Czech journalists from 2016 and 2017, several Czech and Slovak veterans are still in Donbass, however, their military affiliation is unclear. A part of them are ready to fight again, a part of them declare economic activities on behalf of the DNR.³¹ They were in contact with the so called Representative Centre of the DNR (Zastupitelské centrum DNR), registered as an association in the Czech Republic. This association was banned by the court of the first instance in Ostrava in 2017.³²

A returnee (allegedly Erik E., a.k.a., Gardista DNR; former soldier of the Czech army) was charged by the Czech police in June 2017. This man tried to join the Czech army after his return from Donbass.³³ A Czech citizen, allegedly veteran of the KFOR mission and member of the paramilitary group Czechoslovak Soldiers for Peace Alojz Polák (a. k. a. Georgii Donbas Novorusia) is serving in the Republican guard of the DNR³⁴ in 2017. A relatively new activity was announced by the Czech pro-Kremlin emigrant in Russia, Petr Mikhalu (formerly Michalů). He is trying to establish a new Czech-Slovak military unit in Russia in 2017, with the goal to use this unit for the "liberation" of the Czech and Slovak Republics from the "occupation of the EU and the NATO and Islam". Mikhalu is also active in supporting the separatists in Donbass. However, his activity seems to be only a propagandist project without real impact.³⁵ In case of re-intensification of the conflict in Donbass, a new wave of the Czech foreign fighters can be expected.

29 MÁČA, R.: Ovlivňování a radikalizace paramilitární ruské páté kolony uvnitř ČR [online], Blog Idnes, 2017-02-23 [cit. 2017-07-05], available at <http://maca.blog.idnes.cz/blog.aspx?c=586666>

30 BENČÍK, J.: Kto zo Slovenska bojuje ako žoldnier na Ukrajine? Blog Denník N, 2015-12-17 [cit. 2017-06-30], available at: <https://dennikn.sk/blog/321012/>

31 FORRÓ, T. Naši chlapi v Donbase. Babie leto u československých separatistov [online], *Denník N*, 2016-12-01 [cit. 2017-06-30], available at <https://dennikn.sk/622947/nasi-chlapci-v-donbase-babie-leto-u-ceskoslovenskych-separatistov/>

32 ČTK: Soud zrušil zastupitelské centrum Doněcké lidové republiky. České noviny, 2017-06-28, available at: <http://www.ceskenoviny.cz/zpravy/soud-zrusil-zastupitelske-centrum-donecke-lidove-republiky/1501741> [cit. 2017-07-01].

33 KUNDRA, O.: První trest za válčení na Donbase? Obvinění pro muže, který se přidal k proruským separatistům. Respekt 28 (24), p. 26. ISSN: 0862-6545.

34 MÁČA, R.: Věří konspiračním teoriím, fandí Zemanovi, odešel bojovat za proruské separatisty [online], Blog Idnes. 2017-05-11 [cit. 2017-07-05], available at <http://maca.blog.idnes.cz/blog.aspx?c=603636>

35 MIKHALU, P.: Petr Mihalu. V kontakte, 2017-07-03 [cit. 2017-07-03], available at: <https://vk.com/id322842380>

LEGAL ASPECTS OF FOREIGN FIGHTERS' ACTIVITIES IN UKRAINE FROM THE POINT OF VIEW OF THE CZECH LAW

Service in foreign armies is not generally prohibited according to the Czech law, however, it requires specific conditions or approval. According to Act No. 585/2004 Coll., on conscription and its ensuring (the Conscription Act), Czech citizens can serve in the armed forces of a foreign state after the approval of the President of the Czech Republic. This approval is not requested in the case of more citizenships or if military service is provided in the armed forces of a member state of an international organisation of collective defence (of which the Czech Republic is a member).³⁶

Other forms of service in a foreign state's military forces are prohibited. The Criminal code of the Czech Republic states in paragraph 321: "Citizen of the Czech Republic, who contrary to another legal regulation performs service in the army or the armed forces of another state, shall be sentenced to imprisonment for up to five years. An offender shall be sentenced to imprisonment for three to ten years, if he/she commits the act referred to in Sub-section (1) in a state of national peril or state of war".³⁷

The persecution of service in military forces of a non-recognised state is questionable from the point of view of the current Czech criminal law.³⁸ The use of paragraph 409 of the criminal code (Relations Endangering Peace) is not adequate and it has not been tested by the Czech judicial system up to now.³⁹ The application of new paragraphs 312a (Participation in a Terrorist Group) or paragraph 312e (Support and Propaganda of Terrorism) is possible in case of service in terrorist organisations with their own armies. The proposed change of the Czech criminal code in the "main" paragraph 321 was discussed in 2016. The goal of this change was to prosecute service not only in any state's military forces but also in the forces of a "foreign agent" (in the sense of a non-recognised entity).⁴⁰ This amendment has not been adopted up to now.

While the attempt of a Czech citizen to serve in the so-called Islamic state was sentenced according to §312e Propaganda and Support of Terrorism in 2017,⁴¹ the legal assessment of foreign fighters in the Ukrainian conflict is not sufficiently solved. The service in Ukrainian units which are subordinated to governmental structures (a. o. Regiment "Azov") was prosecuted under paragraph 321. The assessment of service in

³⁶ JELÍNEK, J. et. al.: *Trestní zákoník a trestní řád s poznámkami a judikaturou*. Praha: Leges, 2015, ISBN: 978-80-87212-22-6, p. 390.

³⁷ ACT NO. 40/2009 OF THE COL., CRIMINAL CODE [online], [cit. 2017-06-04], available at: <http://www.ejtn.eu/PageFiles/6533/Criminal%20Code%20of%20the%20Czech%20Republic.pdf>

³⁸ JELÍNEK, J. - IVOR, J. et al. *Trestní právo Evropské unie a jeho vliv na právní řád České republiky a Slovenské republiky*. Praha: Leges, 2015, ISBN: 978-80-7502-080-2, p.244.

³⁹ MAREŠ, M. - VÝBORNÝ, Š.: Foreign fighters z pohledu českého trestního práva [online]. *The Science for Population Protection*, 7 (2), 2015, pp. 1-11. ISSN 1803-635X [cit. 2017-07-05], available at: <http://www.population-protection.eu/prilohy/casopis/30/210.pdf>

⁴⁰ KOZÁK, P. Nové možnosti trestného postihu cudzích bojovníkov? Niekoľko poznámok k právnej úprave § 419a Trestného zákona. *Právnik*, 155 (9), 2016, pp. 754-773. ISSN: 0231-6625.

⁴¹ KRAJSKÝ SOUD V PLZNI, *Rozsudek 34 T 16/2016*, 2017-02-24.

freelance nationalist units (mostly the Volunteer Corps of the Right Sector) is not clear. Current attempts to apply “anti-terrorist” paragraphs against foreign fighters in the separatist armed forces⁴² have not been confirmed by valid court judgements up to now. However, discussions about possible breaking the law due to serving as foreign fighters in the Ukrainian conflict are typical of the whole time of this issue.

MEDIA COVERAGE OF CZECH FOREIGN FIGHTERS IN THE UKRAINIAN CONFLICT

Czech foreign fighters in the Ukrainian conflict are an attractive topic for various types of media. However, while fighters on the separatist side were discussed relatively in depth and frequently in mass media and available public new social media, fighters in nationalist units were known mostly in selected echo chambers in new social media, respectively closed right wing extremist circles. In fact, the activities of Czech fighters in governmental units were the clearest breach of the Czech law (see above). Information about the service of former (or current) Czech neo-Nazis might have been used as information to discredit the whole Ukrainian anti-Kremlin struggle. A deeper analysis is impossible due to these facts.

Fighters in separatist units were presented by pro-separatist media (on separatist territories, in Russia and in the Czech Republic) as well as in more or less pro-Ukrainian media in the Czech Republic, in Slovakia or in Ukraine. Some of them used their real names, some of them only nicknames. The above-mentioned speech by Ivo Stejskal in Donetsk in June 2014 was used for propaganda of the internationalisation of the separatist struggle.⁴³ Perception of his “heroic death” serves for mobilisation of supporters of the Novorossian separatism in the Czech Republic. An example is the memorial act at the cemetery in Brno on the 29th August, 2015, organised by the National Democracy, with the participation of communists and other political activists. This activity was propagated at its dedicated internet presentation of the National Democracy.⁴⁴

Interviews and statements of the current Czech separatist fighters in Donbass are used for the purposes of spreading broader political messages. In separatist and Russian media, they try to explain their own motivation based on anti-Western prejudices and to show that many Czechs are opponents of the official pro-Western policy.⁴⁵ At least one

⁴² KUNDRA, 2017.

⁴³ BAGANOV, S. Доброволец из Чехии батальона Восток на митинге в Донецке [online], Youtube, 2014-06-18 [cit. 2017-07-05], available at <http://www.ovkscmfm.estranky.cz/clanky/2.-svetova-valka/r.i.p-ivo-stejskal.v-radach-opolcencu-padli-dva-cesi.html>

⁴⁴ NÁRODNÍ DEMOKRACIE: Na Iva Stejskala můžeme být hrdí, bojoval i za nás [online], 2015-08-31 [cit. 2017-07-05], available at <http://narodnidemokracie.cz/na-iva-stejskala-muzeme-byt-hrdi-bojoval-i-za-nas/>

⁴⁵ CHARKOVA, M. 2015-10-24 [cit. 2017-07-05], available at: http://volos-news.ru/blog/43277939783/CHeshskie-dobrovoltsyi---chest-i-doblest-soprotivleniya-Donbassa?utm_campaign=transit&utm_source=main&utm_medium=page_0&domain=mirtesen.ru&paid=1&pad=1

interview with strong pan-Slavic accent⁴⁶ was translated into the Czech language and it was published for the domestic audience by an alternative web called New World Order Opposition.⁴⁷

The Czech mainstream media use an image of “strange losers” in the presentation of the Czech foreign fighters. Their domestic problems with law and with insufficient personal financial situation are popularised.⁴⁸ In the Ukrainian mainstream media, Czech foreign fighters are even labelled as mercenaries.⁴⁹ On the other hand, pro-separatist media reject such labelling, such as Ivo Stejskal’s sister Monika Stejskalová in the interview with the alternative channel Medium Europe.⁵⁰

Mentioning legal matters is more typical of the mainstream media than of the alternative media. However, in the case of prosecution of the Czech foreign fighter in June 2017 due to a terrorist crime, the Czech version of the Russian news agency Sputnik criticised this legal assessment and it offered a positive image of the fighters in the DNR.⁵¹ In case of a trial, intensification of the activity of the pro-Kremlin spectrum can be expected.

CONCLUSION

The presence of Czech foreign fighters in the Ukrainian conflict created a specific security challenge to the Czech Republic and it shows some unclear parts of the current Czech law. This issue won media attention, mostly in relation to fighters on the separatist side. It was connected with a social polarisation in relation to the Ukrainian conflict in the Czech Republic. The struggle between pro-Western and pro-Kremlin scenes has an impact on the media coverage. The first research question can be answered individually according to the affiliation of the media. Pro-separatist media cover the pro-separatist fighters as heroes, Czech media, a. o., as losers and Ukrainian media as mercenaries. The question of Czech fighters on the Ukrainian side has not been perceived in the media in a broader scope up to now. Possible explanations could be in the limited source of

⁴⁶ CZALENKO, A. Чехо-Словацкие добровольцы в Донбассе: Мы, славяне в Европе, - рабы англо-саксов [online]. UKRAINA.RU, 2015-10-19 [cit. 2017-07-06], available at <http://ukraina.ru/interview/20151019/1014588112.html>

⁴⁷ ČALENKO, A.: Česko-slovenští dobrovolníci na Donbase: My, Slované v Evropě, jsme otroky Anglosasů [online], 2017-10-26, [cit. 2017-07-06], available at: <http://www.nwoo.org/2015/10/26/cesko-slovensti-dobrovolnici-na-donbase-my-slovane-v-evrope-jsme-otroky-anglosasu/>

⁴⁸ HÁJEK, A.: Čeští bohatýři bojující v Donbasu: Tady je větší demokracie než u vás [online], I dnes, 2017-05-21 [cit. 2017-07-06], available at: http://zpravy.idnes.cz/donecka-lidova-republika-cesti-dobrovolnici-begemot-kavkaz-p4q-/zahranicni.aspx?c=A170518_104530_zahranicni_aha

⁴⁹ ZHIROCHOV, M.: Чешские и словацкие наемники на Донбассе [online], On Press, 2017-05-25, [cit. 2017-07-05], available at: <http://onpress.info/cheshskye-y-slovatskiye-naemnyky-na-donbasse-95974>

⁵⁰ MEDIUM EUROPE: CZ: Ivo Stejskal separatist fighter Novorossia - Ukraine war [online], Youtube.com, 2015-03-03 [cit. 2017-07-06], available at: <https://www.youtube.com/watch?v=P5aBjySVAaA>

⁵¹ PETROVÁ, J. Policie objevila českého „teroristu. Názor [online]. Sputnik, 2017-06-14 [cit. 2017-07-06], available at: <https://cz.sputniknews.com/ceskarepublika/201706145465876-police-cesky-terorista/>

data and the fact that these people were affiliated with the right-wing extremist scene (this is a controversial issue from the point of view of pro-Western media). Regarding the second question, it can be concluded that legal issues are sometimes openly declared in the pro-separatist as well as in the mainstream media, but they can be also a reason for hidden activities of foreign fighters and their supporters. However, their impact on the propagandist use is limited.

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