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### **Criminal, legal and criminological aspects of murders of the mercenary inducements**

**Abstract:** It is considered criminal, legal and criminological aspects of the murders of the mercenary inducements.

It is analyzed definitions of murders, indicated an importance of definition of the motives of the commitment of crime, it is studied a structure of activity of criminal, groups of inducements, levels of motivations.

On the content of subjective side it is selected few group of the mercenary inducements murders.

It is considered the motives of mercenary and forcible crimes, analyzed the results of empiric researches.

**Keywords:** murder; mercenary; motive; motivation; inducement; classification; criminal behaviour; violence.

A murder is an intentional wrongful killing of another person, in connection with that the content table of article 120 of the Criminal Code of Azerbaijan Republic as "intentional murder" is presented wrong, since it cannot be unintentional murders (19, p. 134).

In juridical books are given a number of definitions of the murders. Prof. S.V. Borodin determined a murder as "provided by the Special part of the Criminal Code guilty deed, encroaching on life of other individual and causing him death" (4, p. 6). According to N.A. Belyayev, this definition is not correct because: a) a killing can be provided not only by the Special part of the Criminal Code but by in special law; it

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might be in general not provided by the criminal law; b) a sign “guilty” is unnecessary as it related to all crimes; c) the law is provided not “deed, encroaching on life of other person and causing him death” and just killing of other individual as, the first, the careless causing of a death, which is considered by the law as a murder, is not a deed “encroaching” and the second, a lot of deeds encroaching on the life of other person are provided by the law not as a murder and just as other facts of the crime (1, p. 19-21).

Later, S.V. Borodin slightly changed his ideas and pointing out that a murder is a guilty act encroaching on the life of other individual and causing him death (3, 235).

N.I. Zagorodnikov defines a murder as “illegal, intentional or careless killing of other person when infliction of a death is the ground to criminal responsibility” (7, p. 24). According to N.A. Belyayev, it seems unnecessary here to indicate on intention and careless i.e. on the guilt as presence of the guilt is required for the *corpus delicti*, and indication on the form of guilt has a sense when it is established a responsibility only for intention or careless (1, p. 44).

On opinion of E.A. Frolov, a murder is guilty, illegal deprivation of life other individual (18, p. 173), and the Large Juridical Encyclopedia defines a killing as intentional causing a death to other person (2, p. 608).

From our point of view, beginning of physiological labour is a beginning of life as an object of encroachment under killing. The encroachment on human fetus before beginning of the labour process is not the encroachment on life (independently on the age of fetus), and cannot be qualified as a murder. The final stage of a life is biological death, i.e. due to stopping heart work began the irreversible processes of a decay of the cells of the central nervous system.

Causing of clinical death is qualified as attempted murder. In turn, under a certain circumstances the encroachment on a life of a person being in the state of clinical death can be recognized as a murder.

In an equal extent, the law protects a life of any people independently on his vitality (old, an individual being in a hopeless condition due to injury, illness etc.).

According to G.A. Zlobin, a murder out of the mercenary motives takes place when crime is committed from the inducements directed to obtain any material benefits (money, property, property rights, etc.) or with intention to rid of material expenses (satisfaction of debt, a payment of alimony and others). A murder committed for remuneration or to get high paid position is also the mercenary one (8, p. 11-13).

For qualification of the murder as committed from the mercenary inducements it does not mean whether a guilty could realize his mercenary motive or not. It is only necessary that the mercenary inducements have appeared before committing of the killing.

In connection with the stated it seems wrong a division in the article 120.2.5 of the Criminal Code the murders that committed from the mercenary inducements and the hired killings as the last is a variety of the murders from the mercenary motives (19, p. 134).

Clarification of the murder inducement has the important significance to determine its social danger, and consequently for qualification of the punishment.

In many cases it should be resolved an issue on qualification of the actions of accused independence on clarification of the motives of the killing committing.

An exact qualification of a murder is supposed the detailed investigation of the inducements of crime committing, and establishing of the actual motives of the murder has a crucial significance for the exact qualification of a crime and determination of the punishment (12, p. 19-20).

Activity of criminal during committing of a murder has complicated multilevel structure. It consists on the complex of concerted actions (inactions). Each of them is caused by the appropriate motive and aim.

An example is the episode of the killing of Ismaylov, an officer of the MIA of Azerbaijan Republic that committed by the gang of Mammadov G.T.

After hearing from nephew E. Aliyev that a spouse of the last meets with Ismaylov, Mammadov G.T. decided to revenge. He charged to the gang members

Mammadbekov, Agayev and others to lure Ismaylov in home located in Saray township.

When Ismaylov came in the home, Mammadov G.T. killed him striking many stab wounds.

Mammadbekov, Agayev and others participants of the murder obtained a remuneration for its committing, i.e. their motivation in the crime was a mercenary, at the same time, the revenge was an inducement G. Mammadov's actions.

Information about general motive of criminal behaviour on that or other stage of criminal activity and also the motives of more low level has criminalistical significance.

The revealing of an overall picture of the footprint formation during committing crime can only when it will be established the motives determining a sense of each action (inaction) of the criminal activity. In this connection, the system of motives of the criminal behaviour should reflect different levels of this behaviour: i.e. it is necessary division of the indicated inducements as on "vertical" so and "horizontal". Based on the significant for investigation features of motivation, V.V. Trukhachev determines the following groups of inducements: 1) motives, determining the deeds of a criminal at the stage of preparation of crime; 2) motives, determining the acts of a criminal at the stage of committing crime; 3) motives, determining the acts of a criminal at the stage of hiding crime. This differentiation reflects criminalistical horizontal shear of the motives of criminal activity, which is considered as a process having in its development a certain stages (17, p. 14-15).

The following level of community reflects the possible motives committing of the criminal deeds, various objects – social relations, protected by the criminal law.

Attempts of qualification of this level have been repeatedly undertaken in the criminal-legal and criminological studies (7, p. 10-11; 9, p. 9-10; 12, p. 11-12).

A certain interest presents a qualification of the motives of criminal behaviour that suggested by V.V. Luneyev. All combination of the criminal motivations the author comes to the five main types: 1) political; 2) mercenary; 3) forcible and

egoistic (aggressive); 4) individualistic and anarchistic; 5) frivolous and irresponsible (11, p. 186-187).

During studying the motives of committing of separate types (subtypes) of crimes is seen that at this level of motivation is noticed the distinctive features of the inducements which is inherent of separate groups of crimes and is revealed the specific forms of manifestations of that or other motive. Thus, the mercenary during committing a murder can be in a form of inducements, directed on receiving any materials benefits – wishing to have expensive items and material values etc. (21, p. 61-63).

In result of an investigation of the criminal case about murder of Mammadov was established that the crime had committed his nephew Mammadov G.G., who decided by this way to get even with uncle for the debt on establishing of gravestone of his father – sibling of a victim.

Other stage is the motives causing a committing of separate crimes and separate typical actions as a way of committing these crimes. For instance, the mercenary was a motive of murder, but for implementation of this inducement a criminal had to commit actions on depriving of life of a victim of mercenary.

On opinion of R.K. Wagner with this are linked the levels of motivation at the stage of hiding crime (13, p. 15). The main factor inducing of a criminal to take measures to the hiding of crime is a wishing to avoid of detection and responsibility for committed. But, on our opinion, besides the indicated common inducement, it is possible to point out the motivations of hiding more low level of community. It reflects the motives, which determines direct actions of a criminal on hiding of the event of crime; hiding of separate circumstances of a crime to create illusion of low social danger of committed deed; hiding of criminal nature of a deed; hiding his participation in committing of crime or its committing by other person (13, p. 17-19).

The following level includes the motives of hiding of separate types (subtypes) of crimes. On this level of community it is possible determination of interlinks between the data about motivation of hiding and other elements of criminalistical nature of crimes.

The last group is the motives of separate actions entering in a structure of the way of hiding. Thus, in order to disfigure of a face of a corpse, a criminal tries to cause some injuries on this part of a body of the lost (15, p. 41-42).

I.S. Yashin notes that under committing a murder from the mercenary inductions is observed a combination of the mercenary motives with forcible ways of their satisfaction, and if to proceed from dominating motivation then these crimes are related to the mercenaries ones (20, p. 76-78). Though, this does not exclude committing of murders on egoistic motives of self-affirmation, where the mercenary aims are collateral or can be absent at all. In a number of cases a criminal behaviour is politically motivated whereby it is very difficult to clarify the leading motive during an investigation. Therefore, it is not always possible to mark a clear distinction between the mercenary and the forcibly-egoistic motivations of the specific acts. Not by chance in the criminalistical works are wide used a term “mercenary forcible crimes”. But, anyhow these motivations are very various as on its primary determinants and criminological content so and on the methods their social corrections (5, p. 111).

From the subjective side a murder, qualifying on the article 120.2.5 of the Criminal Code, can have two and more motives during setting of a common, interim or final goal. Thus, together with the mercenary inducement, under committing a murder a person can be guided by the motives self-affirmation, suppression, and domination over a victim and other. Among them are the main, leading which stimulate the behaviour, give him subjective, personality sense (10, p. 122-123).

On the content of subjective side it can be conditionally distinguish few groups of the mercenary murders.

According to S. Stark and R. Braing, the first group is the murders the main motives of which are the mercenary. For the correct qualification of the murder from the mercenary inducement a paramount significance has a disclosure of these inducements. It seems that a mercenary motive under killing spreads all over the material benefit in a broad sense of the word. It should not be reduced only to possession of a property and money, though as it is testified by a practice, the murder

from mercenary inducement is often committed in order to seize a property and money. Mercenary killing does not mean only receiving of the material benefit, but it is also the aspirations to get rid of any financial expenses now or in future, save material goods to which will have to lose on the legal ground (14, p. 15-16).

To the mercenary murders are related the contract killings, the killings linked with kidnapping or taking a hostage etc.

The mercenary murder is recognized a killing independently on who is a victim: owner of a property or a person who used this property or was kept this property on deposit.

The victim can be a person with death of whom an accused hopes to get some property rights.

To be recognized the mercenary inducement murder it does not mean who can obtain the material benefit: an accused himself or his closer (7, p. 14-15).

The motives of number mercenary forcible crimes can be hidden from consciousness of a subject, but this is no set him free on unconscious motives from criminal responsibility and punishment. Committing murder, an accused usually does not realize his deep inducements to violence, their inner sense; but he has to understand criminal nature of his action (8, p. 120).

During investigation it is complicated to establish actual motives of crime. Sometimes, on a certain stage of investigation a leading motive of the crime can become only secondary stimulus or not to have any stimulating importance for committing of this crime. Therefore, one of the tasks of operative and investigative officers are establishing of the real motives of committed since it has sufficient difference between the motive (inducement to crime) and motivation (realized explanation of the reasons of committed) (13, p. 301).

Thus, during investigation of murder of Huseynov F.A., Police Colonel in retirement, committed by a gang of Mammadov, investigation came to conclusion that a motive of the crime was financial conflict between them.

But, familiarization with the case materials gives sufficient grounds for conclusion that real motive of this murder was not established; explanation of Mammadov G.T. was taken as the motive of the crime.

It was studied 250 criminal cases about murders from the mercenary inducements, interviewed 15 judges, 20 investigators and 20 detectives of the bodies of MIA and MNS during this research.

This study is shown that 120 cases from the above mentioned have very indirect attitude to the motives about crime reasons.

In process of interviewing 2 investigators and 6 detectives stated that the mercenary forcible crimes are caused by the mercenary and hooligan inducements. In addition, they indicated that these crimes can be also committed by the motives of revenge (1-2-4), animosity, dissatisfaction (4-6-6), jealousy (1-6-6), sexual and other personal inducements having open and very egoistic nature.

The second group is the murders of aggressive forcible motives. Under this, the direct violence becomes of a motive of forcible behaviour. The sufficient role in these crimes play motives-stimulus, for example, sexual nature or various physiological needs of organism on alcohol. They are caused a dynamical development of motivational basis of the forcible action (13, p. 99-101).

The third group is the mercenary murders with especially cruel ways. The main motives of these actions are physical and psychological suppression and killing of a victim, complete superiority over him. Here, the mercenary motive takes a second place. Seizure of the material values are implemented for sake of deeper suppression and depersonalization of a victim. On opinion of G.A. Zlobin, a seizure of the material values reduces an anxiety of criminal, discards a feeling of envy, psychological dependence. Murdering, mocking and jeering over a victim, a criminal tries to assert his social and biological certainty, protect his status as individual, obtains a feeling of safety. He shows his right to existence (8, p. 76-77).

Stealing of the values is happened mechanically and further an accused cannot explain why he stole these items (16, p. 301).



It should select such kind of murder under which forcible action are expressed in form of game. “Game” types of personality of the mercenary forcible criminals are very complicated from the psychological point of view. The representatives of the “game” type are differed a continuing need for search of thrills, risk, excitement linked with danger. As rule, the mercenary inducements act together “games” since the material benefits and emotional experience connected with criminal behaviour are equal significance for this type of criminals (13, p. 148).

Particularity of motivation of criminal behaviour as a circumstance with psychological nature is caused an increased complexity of proving. Therefore, during of investigation of criminal cases about the mercenary murders is happened the situations when it is exhausted all opportunities to prove the motives of criminal behaviour, but it is impossible to establish a whole picture of the motivational behaviour. It seems that in these cases it should proceed from to what classification group, in compliance with considered criminalistical classification of the motives, are referred not established inducements. We believe that an essential incompleteness of the investigation will be in all cases of non proving of the motives of criminal behaviour which determining in conditions of criminal situation of action, directed to reach criminal result, i.e. the motives of committing of crime.

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