The Risk of Direct Participation in Hostilities by PMSCs under Existing International Law

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Is the individual member of the PMSC targetable?
Mercenaries & Organized Armed Groups
(Continous Combat Function)
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Protection and Security Services & Logistic Support

Unless....
Direct Participation in Hostilities (DPH)

Citizens shall enjoy the protection afforded by this Section, unless and for such time as they take a direct part in hostilities.

Art. 51 (3) AP I

Persons taking no active part in the hostilities, […]

Art. 3 GC I-IV
Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law (ICRC, 2010):

1) Threshold of harm

2) Direct causation

3) Belligerent nexus
The activity does not fall under or qualify as:

• Continuous combat function

• Self-defence or defence of others
Scenario 1: PMSCs attack military personnel or objectives
Scenario 2: PMSCs protect civilians or civilian objects
Scenario 3: PMSCs train and advice military forces
Scenario 4: PMSCs provide logistics
Conclusion

Bob liked getting involved – but not actively involved.