



GCSP

Geneva Centre for Security Policy
Where knowledge meets experience

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

Tobias Vestner

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The Question

Is the individual member of the PMSC targetable?

Mercenaries & Organized Armed Groups (Continuous Combat Function)



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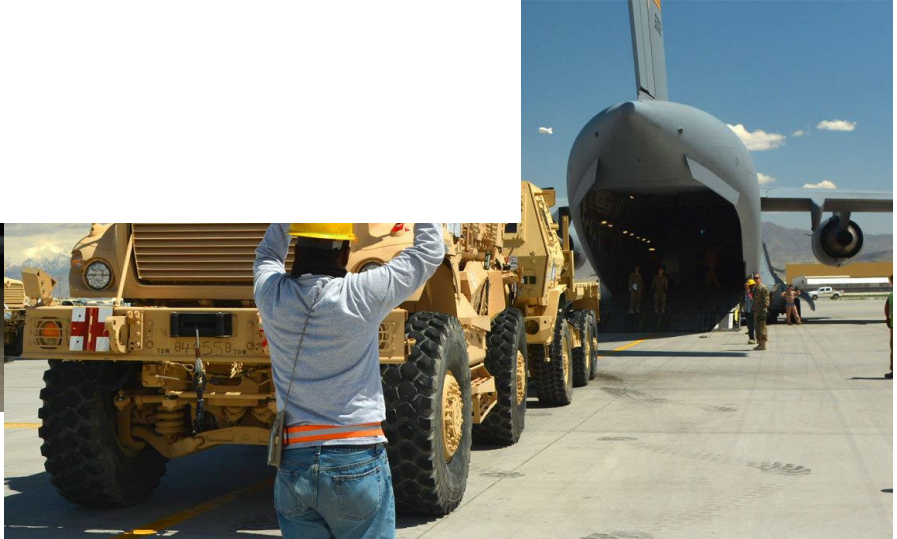
Mercenaries & Organized Armed Groups (Continuous Combat Function)



Protection and Security Services & Logistic Support



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Unless....



Direct Participation in Hostilities (DPH)

Civilians 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

Delimitation

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.

