A presumption consists of accepting that something is true in the absence of sufficient evidence to the contrary. IHL prescribes several presumptions to be made during armed conflicts. In international armed conflicts, persons having committed a belligerent act[1] and having fallen into the power of an adverse party must be presumed to be prisoners of war[2] until such time as their status[3] has been determined by a competent tribunal[4]. In all armed conflicts, persons must be presumed to be civilians[5] and objects normally dedicated to civilian purposes (such as places of worship, houses or schools) must be presumed to be civilian objects[6]. Moreover, anyone accused[7] of a criminal offence related to the armed conflict must be presumed innocent until proven guilty according to the law.

See Direct participation in hostilities[1]; Combatants[8]; Status[3]; Tribunal[4]; Civilians[5]; Prisoners of war[2]; Accused[7]; Civilian objects[6];

of combatant and POW status

OUTLINE

Chapter 6, II. 1. Presumption of combatant and prisoner-of-war status[9]

Chapter 9, II. 12. Presumptions[10]
Presumption of civilian object

P I, 52(3) [13]

CIHL, Rule 10 [14]

Presumption of innocence

P I, 75(4)(d) [15]

P II, 6(2)(d) [16]

CIHL, Rule 100 [17]

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Malaysia, Public Prosecutor v. Oie Hee Koi [18]

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United States, Screening of Detainees in Vietnam [20]
of civilian character or status

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Chapter 9, II. 12. Presumptions

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DOCUMENT

France, Accession to Protocol I (Part B., Para. 9)
CASES

Belgium, Public Prosecutor v. G.W. [32]

United States/United Kingdom, Report on the Conduct of the Persian Gulf War [33]

Human Rights Committee, Guerrero v. Colombia [34]

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Source URL: https://casebook.icrc.org/glossary/presumptions

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[8] https://casebook.icrc.org/glossary/combatants
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