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Clothing, usually of a specific colour/design, and insignia, worn by members of the same military unit. In international armed conflicts, combatants <sup>[1]</sup> have an obligation to distinguish themselves from the civilian population and this can be achieved by wearing a uniform. Therefore, members of the armed forces engaged in or preparing an attack <sup>[2]</sup> without wearing a uniform and/or failing to carry their arms openly are not entitled to the status <sup>[3]</sup> of prisoner of war <sup>[4]</sup>. The feigning of protected status by wearing the uniforms of the United Nations <sup>[5]</sup> or of a neutral <sup>[6]</sup> or other non-belligerent State is prohibited by IHL. A combatant attempting to gather information on the territory of the adverse party while in uniform shall not be considered a spy <sup>[7]</sup> (and will therefore benefit from prisoner of war status if captured).

See **C**ombatants <sup>[1]</sup>; **A**ttack <sup>[2]</sup>; **P**risoners of war <sup>[4]</sup>; **S**pies <sup>[7]</sup>; **S**tatus <sup>[3]</sup>; **U**nited Nations <sup>[5]</sup>; **N**eutral State <sup>[6]</sup>; **P**erfidy <sup>[8]</sup>;

## OUTLINE

Chapter 9, III. 3. b) - wearing of enemy uniforms <sup>[9]</sup>

## LEGAL SOURCE

HR, 23(f) <sup>[10]</sup>

PI, 39/2 <sup>[11]</sup>

CIHL, 62

[12]

### **Obligation for combatants to distinguish themselves**

GC III, 4(A) <sup>[13]</sup>

P I, 44(3) <sup>[14]</sup>

CIHL, 106 <sup>[15]</sup>

## **CASES**

United States Military Court in Germany, Trial of Skorzeny and Others <sup>[16]</sup>

Bosnia and Herzegovina, Using Uniforms of Peacekeepers <sup>[17]</sup>

Iraq, Crimes by Militia Groups <sup>[18]</sup>

## **BIBLIOGRAPHIC RESOURCES**

JOBST Valentine, "Is the Wearing of the Enemy's Uniform a Violation of the Laws of War?", in *AJIL*, Vol. 35/3, 1941, pp. 435-442

PFANNER Toni, "Military Uniforms and the Law of War", in *IRRC*, No. 853, March 2004, pp. 93-130

## **Wearing of uniforms of UN, neutral or other States not party to the conflict**

### **LEGAL SOURCE**

PI, 37/1(d) <sup>[19]</sup> and 39/1 <sup>[11]</sup>

CIHL, 60 <sup>[20]</sup> and 63

<sup>[21]</sup>CIHL, 63 <sup>[21]</sup>

<sup>[21]</sup>

### **CASES**

Bosnia and Herzegovina, Using Uniforms of Peacekeepers <sup>[17]</sup>

## **Necessity (or other distinction) for combatant or belligerent status**

### **LEGAL SOURCES**

HR, 1 <sup>[22]</sup>

GCIII, 4/A(2) <sup>[13]</sup>

PI, 43/1 <sup>[23]</sup> and 44/3 <sup>[14]</sup> and 7 <sup>[24]</sup>

## Spies

### LEGALE SOURCES

HR, 29/2 <sup>[25]</sup>

PI, 39/3 <sup>[11]</sup> and 46/2 <sup>[26]</sup>

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[16] <https://casebook.icrc.org/case-study/united-states-military-court-germany-trial-skorzeny-and-others>

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<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=3EA868BE16BCBB86C12563CD>

[20] [https://www.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule60](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule60)

[21] [https://www.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule63](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule63)

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<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=4A21D01103C0DCFC12563CD>

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<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=AF64638EB5530E58C12563CD0>

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<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=6DBDF30B60749A05C12563CD>

[25]

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=090BE405E194CECBC12563CD>

[26]

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=2A0B6343A399DB8AC12563CD>