

In international humanitarian law the concept of “direct participation in hostilities” refers to conduct which, if carried out by a civilian, suspends his protection against the dangers arising from military operations. Most notably, for the duration of his direct participation in hostilities, a civilian may be directly attacked as if he were a combatant.

International humanitarian law does not define direct participation. The ICRC <sup>[1]</sup> issued Interpretive Guidance which provides recommendations concerning the interpretation of international humanitarian law as it relates to the concept of direct participation. The recommendations in the Interpretive Guidance, as well as the accompanying commentary, do not change binding rules of treaty law <sup>[2]</sup> or customary law <sup>[3]</sup> of armed conflict but reflect the ICRC <sup>[1]</sup>'s institutional position as to how existing international humanitarian law should be interpreted in light of the circumstances prevailing in contemporary armed conflicts.

The following definition of the concept of direct participation in hostilities is taken from the Interpretive Guidance.

Definition: Direct participation in hostilities consists of specific acts carried out by individuals as part of the conduct of hostilities <sup>[4]</sup> between parties to an armed conflict.

Constitutive elements of direct participation in hostilities: In order to qualify as direct participation in hostilities, a specific act must meet the following cumulative criteria:

- a. the act must be likely to adversely affect the military operations or military capacity

- of a party to an armed conflict or, alternatively, to inflict death, injury, or destruction on persons or objects protected against direct attack (threshold of harm);
- b. there must be a direct causal link between the act and the harm likely to result either from that act, or from a coordinated military operation of which that act constitutes an integral part (direct causation); and
  - c. the act must be specifically designed to directly cause the required threshold of harm in support of a party to the conflict and to the detriment of another (belligerent nexus).

Measures preparatory to the execution of a specific act of direct participation in hostilities, as well as the deployment to and the return from the location of its execution, constitute an integral part of that act.

In a non-international armed conflict <sup>[5]</sup>, an individual whose continuous function involves the preparation, execution or command of operations amounting to direct participation in hostilities on behalf of an organized armed group is considered a member of that group ("continuous combat function") and loses his protection against the dangers arising from military operations for the duration of that membership.

## OUTLINE

Chapter 9, II. 7. Loss of protection, the concept of DPH <sup>[6]</sup>

Chapter 5, the civilianisation of armed conflicts <sup>[7]</sup>

## LEGAL SOURCE

## right to participate (for combatants)

PI, 43/2 <sup>[8]</sup>

## Civilians

PI, 51/3 <sup>[9]</sup>

PII, 13/3 <sup>[10]</sup>

CIHL, 6 <sup>[11]</sup>

## DOCUMENT

ICRC, Interpretative Guidance on the Notion of Direct Participation in Hostilities <sup>[12]</sup>

ICRC, International humanitarian law and the challenges of contemporary armed conflicts in 2011 <sup>[13]</sup>

## CASES

ICRC, The Challenges of Contemporary Armed Conflicts <sup>[14]</sup>

ECHR, Korbely v. Hungary <sup>[15]</sup>

Israel, The Targeted Killings Case (Paras 24-40 <sup>[16]</sup>)

Israel, Detention of Unlawful Combatants <sup>[17]</sup> (Part A. <sup>[18]</sup>, paras 13 <sup>[19]</sup> and 21 <sup>[20]</sup>;  
Part B. <sup>[21]</sup>)

Inter-American Commission on Human Rights, *Tablada* <sup>[22]</sup> (Paras 178 <sup>[23]</sup> and 189  
<sup>[24]</sup>)

ICC, *The Prosecutor v. Thomas Lubanga Dyilo* (Paras 259-267 <sup>[25]</sup>)

Colombia, Constitutionality of IHL Implementing Legislation <sup>[26]</sup> (Paras D. 3.3.1.  
<sup>[27]</sup>-5.4.3. <sup>[28]</sup>, Para. E.1 <sup>[29]</sup>)

Afghanistan, Drug Dealers as Legitimate Targets <sup>[30]</sup>

Afghanistan, Code of Conduct for the Mujahideen <sup>[31]</sup> (Arts 7-9 <sup>[32]</sup>, 20-21 <sup>[33]</sup>)

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Philippines, Armed Group Undertakes to Respect Children <sup>[43]</sup>

Somalia, the fate of Children in the conflict <sup>[44]</sup>

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European Court of Human Rights, Kononov v. Latvia <sup>[47]</sup>

ECHR, Al-Skeini et al. v. UK <sup>[48]</sup>

U.S., Lethal Operations against Al-Qa'ida Leaders <sup>[49]</sup>

General Assembly, The use of drones in counter-terrorism operations <sup>[50]</sup>

Private Military Security Companies <sup>[51]</sup>

Syria, Press conference with French President Francois Hollande and Russian President Vladimir Putin <sup>[52]</sup>

ICRC, International Humanitarian Law and the challenges of contemporary armed conflicts in 2015 <sup>[53]</sup> (paras 161-165 <sup>[54]</sup>)

Switzerland, The End of Private Armies <sup>[55]</sup>

United States, Jurisprudence Related to the Bombing of the U.S.S. Cole <sup>[56]</sup>

Italy, Use of force against ambulances in Iraq <sup>[57]</sup>

Iraq/Syria/UK, Drone Operations against ISIS <sup>[58]</sup>

Israel/Palestine, Accountability for the Use of Lethal Force <sup>[59]</sup>

ICC, Confirmation of Charges against LRA Leaders <sup>[60]</sup>

Germany, Aerial Drone Attack in Mir Ali/Pakistan <sup>[61]</sup>

Mexico, The "War on Drugs" <sup>[62]</sup>

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Georgia: Attacks against peacekeepers <sup>[64]</sup>

South Sudan, The Nuer "White Armies" <sup>[65]</sup>

South Sudan, Activities of Oil Companies <sup>[66]</sup>

"Great March of Return" Demonstrations and Israel's Military Response <sup>[67]</sup>

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**Source URL:** <https://casebook.icrc.org/glossary/direct-participation-hostilities>

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