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A “mercenary” is a person who takes a direct part in hostilities motivated essentially by the desire for private gain.

? A captured mercenary is not a prisoner of war ^[1].

Article 47 of Additional Protocol I spells out six cumulative conditions for a person to be a mercenary. The person must:

- a. be specially recruited locally or abroad in order to fight in an armed conflict;
- b. take a direct part in the hostilities;
- c. be motivated to take part in the hostilities essentially by the desire for private gain and to be promised, by or on behalf of a Party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces of that Party;
- d. not be a national of a Party to the conflict or a resident of territory controlled by a Party to the conflict;
- e. not be a member of the armed forces of a Party to the conflict; and
- f. not have been sent by a State which is not a Party to the conflict on official duty as a member of its armed forces.

The 1989 International Convention against the Recruitment, Use, Financing and Training of Mercenaries extends this definition to persons recruited for the purpose of participating in a concerted act of violence aimed at overthrowing a government or otherwise undermining the constitutional order of a State, or at undermining the territorial integrity of a State.

A national of a neutral State ^[2] who enlists in the armed forces of a party to the conflict is not a mercenary.

See Private Military and Security Companies (PMSCs) ^[3];

OUTLINE

Chapter 6, I. 3. c) Mercenaries ^[4]

LEGAL SOURCE

PI, 47 ^[5]

CIHL, 108 ^[6]

CASES

The Issue of Mercenaries ^[7]

Nigeria, Operational Code of Conduct ^[8]

Case Study, Armed Conflicts in Sierra Leone, Liberia and Guinea (1.B.1) ^[9]

Private Military Security Companies ^[10]

ICRC, International Humanitarian Law and the challenges of contemporary armed conflicts in 2015 [para 91 ^[11]]

UN, Working Group on the use of Mercenaries: Preliminary Findings of Mission to Ukraine

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Links

[1] <https://casebook.icrc.org/glossary/prisoners-war>

[2] <https://casebook.icrc.org/glossary/neutral-state>

[3] <https://casebook.icrc.org/glossary/private-military-and-security-companies-pmscs>

[4] https://casebook.icrc.org/law/combatants-and-pows#i_3_c

[5]

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=9EDC5096D2C036E9C12563CD>

[6] https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule108

[7] <https://casebook.icrc.org/case-study/issue-mercenaries>

[8] <https://casebook.icrc.org/case-study/nigeria-operational-code-conduct>

[9] https://casebook.icrc.org/case-study/case-study-armed-conflicts-sierra-leone-liberia-and-guinea-1980-2005#part_1_b_1

[10] <https://casebook.icrc.org/case-study/private-military-security-companies>

[11] <https://casebook.icrc.org/case-study/icrc-international-humanitarian-law-and-challenges-contemporary-armed-conflicts-2015#challenges-2015-para91>

[12] <https://casebook.icrc.org/case-study/un-working-group-use-mercenaries-preliminary-findings-mission-ukraine>