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 who enlists in the armed forces of a party to the conflict is not a mercenary.

See Private Military and Security Companies (PMSCs);  

OUTLINE
Chapter 6, I. 3. c) Mercenaries

LEGAL SOURCE
PI, 47
CIHL, 108

CASES
The Issue of Mercenaries
Nigeria, Operational Code of Conduct
Case Study, Armed Conflicts in Sierra Leone, Liberia and Guinea (1.B.1)
Private Military Security Companies
ICRC, International Humanitarian Law and the challenges of contemporary armed conflicts in 2015 [para 91]
UN, Working Group on the use of Mercenaries: Preliminary Findings of Mission to Ukraine
Suggested readings:


Further readings:


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

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