

REGULATING PRIVATISATION OF "WAR": THE ROLE OF THE EU IN ASSURING COMPLIANCE WITH INTERNATIONAL HUMANITARIAN LAW AND HUMAN RIGHTS

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Coordinated by the
European University Institute, Florence, Italy

About PRIV-WAR

PRIV-WAR is a collaborative research project
carried out by a consortium of seven European partners:

European University Institute, Florence, Italy

LUISS "Guido Carli", Rome, Italy

Justus Liebig Universität Giessen, Germany

Riga Graduate School of Law, Latvia

**Université Panthéon-Assas (Paris II),
Centre Thucydide, France**

University of Sheffield, UK

Utrecht University, The Netherlands

The project will assess the impact of the increasing
use of private military companies and security
companies (PMCs/PSCs) on situations of armed
conflict. It will examine the regulatory framework at
national, European and international levels, with
a view to ensuring improved compliance with
international humanitarian law and human rights.
Launched in January 2008, the project will run for three years.

The PRIV-WAR Consortium

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Context

In recent years, the “privatisation of war” has attracted growing attention: several states have resorted to private military companies (PMCs) and private security companies (PSCs) in situations of armed conflict. These firms offer logistical support, security and crime prevention services, military advice and training. Their potential engagement in combat has raised questions under international humanitarian law (IHL).

The notion of mercenaries has resurfaced and the legality of private actors has been questioned. In addition, the issue of accountability of the PMCs/PSCs, as corporations and of their employees individually has emerged in recent practice. Although the participation of private actors in warfare is not a new phenomenon, an initial concern motivating commentators and activists was that private companies operate in a legal vacuum. Whilst there is growing consensus that the situation actually consists of a complex patchwork of norms, the key issue remains of whether and how these existing norms can be effectively applied and whether they need to be supplemented with new norms.

Objectives

- To promote a better understanding of the phenomenon of the privatisation of war.
- To clarify the legal status of PMC/PSC employees under IHL.
- To foster knowledge on the impact of private military activities on the enjoyment of human rights.
- To analyse the international responsibility and accountability of the corporations.
- To review the criminal liability of PMCs/PSCs and their employees for serious violations of human rights and IHL.
- To examine the existing regulation at the national, European and international levels.
- To explore ways in which the EU could regulate or facilitate the regulation of PMCs/PSCs with a view to assuring compliance with human rights and IHL.

Activities

• Research and dissemination

Research will be undertaken on a range of questions relating to the existing legal framework and the practices of PMCs/PSCs. National legislation and judicial practice will be collected and annotated. The research results will be broadly disseminated within the scientific community and beyond through reports, publications, articles in academic journals, workshops and conferences.

• Creation of a European academic network in the field of regulation of the private military and security sector

The project consortium comprises seven European research institutions, each bringing to the project recognised expertise in the fields of international relations and international legal research. PRIV-WAR will create a European academic network, open to the future participation of other institutions.

• Dialogue with practitioners and stakeholders

PRIV-WAR will promote ongoing exchanges of views between researchers, stakeholders, practitioners and industry representatives. Dialogue with these parties will inform the research and ensure that policy recommendations benefit from the input of all relevant players.

• Development of a European approach to regulation

The project will formulate proposals for a satisfactory regulatory scheme within the European Union to ensure accountability and responsibility of PMCs/PSCs. Maintaining a focus on the role of human rights and IHL, the project will seek to identify possible approaches and legal tools, including licensing and registration.