



PRIVATE ACTORS AND ARMED CONFLICT: THE NEW DISCIPLINE ON PRIVATE MILITARY AND SECURITY COMPANIES (PMSCs)

Over the last thirty years, it is possible to detect an increasing trend by States to employ private military and security companies (PMSCs) in the context of the provision of services during armed conflicts. Against this background, the outsourcing of military and security activities and the environment in which PMSCs operate raise numerous issues regarding their legal status under international humanitarian law, as well as their possible responsibility under international law. This article intends to provide a comprehensive framework of the regulation of PMSCs according to international humanitarian law, paying particular attention to the characterization of individuals operating within private society as mercenaries, combatants or civilians. Similarly, this article will explore the attempts to regulate PMSCs activities at the international and national levels. In parallel, self-regulatory initiatives and codes of conduct developed in an extra-governmental context will be considered. Eventually, the difficulties in attributing the responsibility for violations of international humanitarian law will be addressed. Specifically, this article will explore under what conditions it is possible to attribute the responsibility to the private company itself, to individual contractors who committed the violation as part of their activities in the private company, or to the State. In the latter case, it will be evaluated whether the State to which it is possible to attribute the responsibility for violation of international law by a private company is the home State, the host State, or the contracting State.