



PRIV-WAR

Regulations for private military and security companies

Military and security services are increasingly “outsourced”: Private corporations do what the military and the police used to do. However, are such services legal – and should they be? Who is monitoring such corporations and to whom are they accountable? The PRIV-WAR project investigated such questions and made policy recommendations to the European Commission.

Researchers found that if private corporations provide defense and military services, this risks the violation of human rights and international humanitarian law. One of the best-known examples of this is the Nisour Square incident, where 17 civilians were killed by employees of the US security company “Blackwater” in Iraq in 2007. However, at the same time, the human rights and humanitarian laws need to protect the lives and security of the contractors.

This is one reason why the project PRIV-WAR urged European policy makers to regulate the activities of private military and security companies in a consistent way all over Europe. So far, legislation is diverse among member states.



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IMPACT

On 11 May, the European Parliament adopted resolution 2010/2299 (INI) which says, among other things, that the European Parliament “considers that the adoption of EU regulatory measures, including a comprehensive normative system for the establishment, registration, licensing, monitoring and reporting on violations of applicable law by private military and security (PMS) companies [...] is necessary”. This resolution draws on the results of PRIV-WAR and its recommendations that were presented during the project’s final conference in Brussels in April 2011.

The researchers hope that European regulation will also have an impact on states outside of the EU, “particularly if the regulation of PMSCs [private military and security companies] is included in the political dialogue with third states”, as they write in their recommendations.

The PRIV-WAR Project has also contributed to the expansion of knowledge on the subject by the publication of several articles, Working Papers, and two books (see ‘FACTS & FIGURES’).



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“Laissez-faire” for questions of life and death?

When researchers investigated legislation regarding private military and security companies in EU member states, they found significant differences: While some states prohibit such companies, others have specific regulatory regimes while still others adopt a system of “laissez-faire”.

The current situation not only means that companies might move to a country with the most lenient legislation. It also means that the principle of free movement of services is violated because such companies cannot offer their services equitably across Europe. Furthermore, they may face conflicting requirements in relation to the pursuit of EU policies, such as the fight against piracy.

Regulation needed at European level

The PRIV-WAR project is convinced that regulation at European level is necessary in order to ensure better compliance with human rights and international humanitarian law. The project proposed two options for the regulation of Private Military and Security (PMS) services and two for the export of PMS services abroad, to cover both legally binding and non-legally binding scenarios.

More specifically, PRIV-WAR concluded that the member states of the EU should not outsource tasks to private military and security companies if they amount to a direct participation in hostilities. Member states should prohibit the registration or licensing of companies that directly participate in hostilities.

The European Parliament has adopted a resolution that calls on the Council and the EU Commission to initiate regulatory measures in the field of private military and security companies. This regulation is based on the work of the project PRIV-WAR (see “IMPACT”).

FACTS & FIGURES

Project Name	PRIV-WAR (Regulating privatisation of ‘war’: the role of the EU in assuring compliance with international humanitarian law and human rights)
Website	www.priv-war.eu (archived on web.archive.org/web/20120322010043/http://priv-war.eu)
Coordinating Institution	European University Institute, Italy
Number of Partners	7
Start Date – End Date	1.1.2008 – 30.6.2011
Duration	42 months
Project Funding	1.138.682 €
Activity - FP7	Europe in the word - Activity 4
Funding scheme	Collaborative project
Read more	PRIV-WAR recommendations for EU regulatory Action www.ec.europa.eu/research/social-sciences/pdf/priv-war-recommendations_en.pdf F. Francioni & N. Ronzitti (eds), War by Contract: Human Rights, Humanitarian Law, and Private Contractors (Oxford, Oxford University Press, 2011) C. Bakker & M. Sossai (eds), Multilevel Regulation of Military and Security Contractors: The Interplay between International, European and Domestic Norms (Oxford, Hart, 2012)



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