UN's Use of Private Military and Security Companies in Peacekeeping Operations - Is There a Legal Basis?

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Abstract

PMSCs are not only hired by states, the UN makes use of PMSCs as well. Due to the UN member states' passivity there has not been a single peacekeeping operation without the involvement of PMSCs since 1990. But is there a legal basis? The UN Charter neither provides a legal basis for peacekeeping operations nor does it mention PMSCs. For that reason peacekeeping operations were labeled Chapter VI ½ operations and the implied powers doctrine has been emphasized repeatedly as legal basis. May the implied powers doctrine be invoked as well for the use of PMSCs or does this go beyond the scope of its application? Additionally, the peacekeeping principles – the holy trinity – consent, impartiality and use of force only for self-defense, need to be analyzed in the context of PMSCs. In particular, the deployment of PMSCs as security personnel is described in more detail.

Keywords

Holy Trinity - Implied Powers Doctrine – Peacekeepers - Peacekeeping Operation – Private Military and Security Companies – PMSCs - United Nations

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Framing the issue

Recent years have witnessed an increase in the number of PMSCs operating in armed conflicts. PMSCs are not only hired by states, the UN makes use of PMSCs as well. There are two ways how PMSCs can be involved in peacekeeping operations. First: PMSCs can be hired by a member state and seconded to the UN. Second: The UN can hire the PMSC directly. This paper focuses on the second option.

The significance and importance of UN's use of PMSCs becomes even clearer when we examine the development of UN peacekeeping operations and the emerging needs of the future. Peacekeeping operations today are increasingly facing multi layered and challenging conflicts, often in complex environments where peacekeepers are directly targeted. The public perception focuses on the employment of PMSCs for the protection of peacekeepers, convoys and premises but apart from that, PMSCs are also involved in different ways (Pingeot 2012: 24 ff; Østensen 2011: 15 ff.). They are used for the maintenance and operation of high-tech equipment and for demining (Østensen 2013: 36; Sossai 2014: 406; Østensen 2014: 423). Besides that, PMSCs influence peacekeeping operations in an indirect way. PMSCs are hired for the training of peacekeepers. Due to this PMSCs play a part which must not be underestimated for peacekeeping operations. They also seek to gain an even more prominent role in peacekeeping operations. Even though PMSCs do not provide front-line peacekeepers, it is not correct to describe their involvement as limited to security tasks. Nevertheless, since security tasks are still one major field of application of PMSCs this paper will draw special attention to it. The UN Charter neither provides a legal basis for peacekeeping operations nor for the use of PMSCs. Therefore this aspect deserves special emphasis. In this context, the implied powers doctrine and the holy trinity - consent, impartiality and use of force only in self-defense – are of utmost importance.

So far, literature has mainly discussed the use of PMSCs by states. Thereby the status of PMSC personnel under international law and the application of International Humanitarian Law and Human Rights Law have been addressed. Different conclusions were drawn. While some authors submit that there is a legal vacuum, others deny any kind of legal gap. Very few authors problematize the legal basis, instead of that they evaluate the different approaches to regulate PMSCs.

This paper is divided into three main chapters: First the UN's use of PMSCs is shown on an empirical basis by evaluating previous peacekeeping operations, followed by an analysis of the legal basis of peacekeeping operations, focusing on the implied powers doctrine and the advisory opinions of the International Court of Justice (ICJ). The third Chapter deals with the specific situation of PMSCs in peacekeeping operations and questions whether the implied powers doctrine may be invoked as a legal basis as well and examines the compatibility of PMSCs with the holy trinity of peacekeeping.

The UN's use of PMSCs

To determine whether PMSCs are legally allowed to be used in peacekeeping operations it is necessary to identify the different ways of their commitment. It is unavoidable to separate PMSCs

which are entrusted with the fulfillment of the mandate and act as peacekeepers from PMSCs which are contracted to support the mission. To illustrate this classification, reference can be made to the Status of Forces agreement of the UN mission UNMISS, which uses the terms „member of UNMISS" and „contractor" to underline the difference. So far, PMSCs have never been entrusted with the fulfillment of the mandate (Janaby 2015, 167). The main tasks of PMSCs are

- protection of convoys / premises
- logistics
- disarmament, demining (Wulf 2005: 58).-

However, it needs to be determined if PMSCs could be deployed as peacekeepers in future missions. Therefore this paper examines the constellation PMSCs as peacekeepers, too. PMSCs could solve one of the major problems of peacekeeping operations: The member states' reluctance to second national troops to the UN. In particular, the western member states provide a very low number of troops. The status quo on 31st of May 2015: USA 36, Germany 158 and UK 284 soldiers. In contrast, the commitment of some developing countries: Bangladesh 8,078, Ethiopia 7,712 and Pakistan 8,234 soldiers (UN Department of Peacekeeping Operations 2015). After the cold war, various states reduced their national force contingents. At the same time, the permanent five stopped to veto in the Security Council which caused the number of peacekeeping operations to increase rapidly and thus the demand for peacekeeping personnel. Secretary-General Ban Ki-moon stressed the insufficient supply with troops as well: Today we face mounting difficulties in getting enough troops, the right equipment and adequate logistical support, (…) Supply has not kept pace with demand (Ban Ki-moon 2015). So there was a need to substitute national forces and PMSCs were regarded as the best available option to meet this demand (Seidl 2008: 22 f.). PMSCs considered the employment in peacekeeping operations as a new source of income and – even more important – as a means to improve their reputation.

The UN stresses the fact that they only hire Private Security Companies (UN Doc. A/69/338 2014, 2). However, the distinction between security and military companies is not convincing. Usually, the companies offer a wide range of tasks which include security and military tasks at the same time and it is not possible to draw a clear line between these two categories. Due to this it is more precise to state that the UN hires PMSCs to perform security tasks. While at the beginning the release of information on the UN's use of PMSCs was very limited, the amount and frequency at which information is provided have now increased. Although they release lists of contractors, they do not mention the specific tasks which they were hired for.

PMSCs in peacekeeping operations

In May 2014 the UN employed 30 PMSCs (unarmed and armed personnel). They used unarmed security personnel in 11 peacekeeping operations and in one support mission (UNMIL, UNMISS, UNISFA, MONUSCO, UNOCI, MINUSMA, UNIFIL, MINURSO, UNAMA, UNMIK, MINUSTAH, UNMOGIP). For two missions (MINUSTAH and UNAMA) they engaged armed security personnel (UN Doc. A/69/338 2014: 5). In 2013, the UN entered into a three years contract with the Italian company Selex on the use of drones, including personnel for their maintenance and control (Sossai 2014: 412). During the mission in Congo (MONUSCO), the UN

used reconnaissance drones for a better assessment of the complex situation, the protection of the civilian population, the protection of peacekeepers, the monitoring of arms embargoes and the monitoring of streams of refugees. During another mission in Congo (MONUC), the PMSC "Pacific Architects and Engineers" was hired for the management of 11 airfields. They were in charge of essential parts of the mission, drove UN vehicles, were recognized as peacekeepers by the local population, became targets of acts of violence and organized the evacuation of UN personnel (OIOS Audit report 2012; Østensen 2013: 36; Østensen 2011: 17). As the situation in the field got precarious, peacekeepers were withdrawn. The PMSC personnel stayed in the field to fulfill their contractual commitment. Their deployment was described as it may look like war, but it's peacekeeping (Østensen 2011:17; Lacey 2005). During the mission in East-Timor, the UN was supported by DynCorp with helicopters and satellite communication (Østensen 2011: 16). Already during the mission in Bosnia-Herzegovina (UNPOFOR) in 1992 the UN made use of PMSCs on a very broad basis. In total they hired five PMSCs (among others DSL and DynCorp). DSL provided 425 employees composed of 24 nationalities. They included architects, mechanics and analysts. As the mandate grew, the tasks grew as well. DSL provided mechanics and drivers for armed vehicles. Compared to the peacekeepers, the PMSC personnel stayed in the field for a much longer term (House of Commons 2001/2002: Appendix 6). DSL also supported the missions in Mozambique (ONUMOZ) and Angola (UNAVEM) (Lilly 2000: 55). With respect to the mission in Congo, (MONUC) a consortium of PMSCs made an offer concerning high-tech aerial surveillance, rapid police reaction and rapid humanitarian rescue capabilities. The UN rejected the offer. The transfer of these tasks to PMSCs was considered to be unacceptable, in particular because of their reputation as a new generation of mercenaries (Seiberth 2013: 44). The PMSCs also got in touch with the organizational level. For example, the UN Department of Management hired a specialized security firm to determine the structures of the Department of Safety and Security (UN Doc. A/63/379 2008: 7). Another common field of engagement for PMSCs is demining. Among others, Olive Group, EODT Technology, Armour Group and Ronco were hired by the UN (Østensen 2013:46). Moreover, PMSCs are involved at the forefront of peacekeeping operations. The US Global Peace Operations Initiative awarded a major contract concerning the training of soldiers to PMSCs. In numbers: By 2009 54,000 soldiers were trained by PMSCs, 45,000 of them were used in peacekeeping operations (Østensen 2013: 37f.).

To conclude: PMSCs are not used as front-line peacekeepers, but at the same time their use is not limited to the mere protection of UN personnel and premises (Østensen 2013: 35). They play an essential role in peacekeeping missions and contribute to the organization of the missions (Østensen 2014: 424 ff).

PMSCs as security guards

Already since the 1990s the UN uses PMSCs on a regular basis. At the beginning, the UN mainly hired local, unarmed companies for the protection of their personnel, followed by the employment of armed PMSCs in more complex environments where the host states were not capable to provide security for the peacekeepers (UN Doc. A/69/338 2014: 3).

Peacekeeping operations have undergone a significant change. Starting with observer missions in the 1940s, where the use of force was only allowed in self-defense, to robust peacekeeping missions according to Chapter VII UN Charter and authorized to use all necessary means. As a result of that development, peacekeepers themselves became targets of acts of violence. Due to this the demand for security personnel increased significantly. Since 2003 567 attacks on civil personnel have been taken place and 200 people have been killed (UN Doc. A/69/338 2014: 7). The budget for unarmed and armed PMSCs for the period 2013/2014 amounts in total to 42,125,298 US$ (UN Doc. A/69/338 2014:5). For 2016 there is an estimated budget of 244 Bn. US$ (UN Doc. A/68/339 2013: 7). Although resolution 55/232 of the General Assembly prohibits the outsourcing of any tasks which affect the security of personnel, delegations or visitors, in practice this is not be understood as a ban of PMSCs. The UN Guidelines on the Use of Armed Security Services from Private Security Companies as well as the reports of the UN Working Group require the cooperation with PMSCs with respect to security tasks (Cameron / Chetail 2013: 55). The Field Security Handbook represents one of the earliest sources with respect to UN's use of PMSCs. In Annex O it says: Should the host government be unable to provide the requisite security, under such rare and exceptional circumstances the organizations of the United Nations system may protect their offices, premises and personnel by employing security service companies providing armed guards. (the ultima-ratio-principle) (Department of Safety and Security 2006: O-1). The recruitment of PMSC personnel was not addressed in the Security Field Book, but was covered in documents at a later date. The Guidelines on the Use of Armed Security Services from Private Security Companies and the Security Policy Manual need to be highlighted in this context. Both documents were published by the United Nations Department of Safety and Security as a result of the Inter-Agency Security Management Networks. The documents determined that the security of UN personnel is in first place the host state's responsibility. Only in cases where neither the host state nor any other member state is capable to provide security, a private security company may be contracted. The Security Policy Manual (Chapter G No. 21) requires specific preconditions for PMSCs to get hired by the UN. These are listed in Chapter F No. 25 of the Guidelines on the Use of Armed Security Services from Private Security Companies. Among others they made reference to the Montreux Document and require a membership of the International Code of Conduct for Private Security Providers (ICoC). The Guidelines do not mention a membership to the Articles of Association of the ICoC since they were published afterwards. The Articles of Association implement the ICoC. While there are over 700 members to the ICoC, there are only around 160 members to the Articles of Association, so the wording of the Guidelines needs to be adapted.

Also, the UN Working Group drew its attention to the UN's use of PMSCs and evaluated the Guidelines on an expert meeting on 31st of July 2013. They criticized that the monitoring procedure is not executed by the UN itself and that it is not sufficient to rely on the assessments of the companies. Moreover, subcontracts cause a high lack of transparency. The UN Working Group also criticized the scope of application of the Guidelines which is limited to armed PMSCs, the lack of provisions with respect to attribution, the lack of any commitment to respect human rights via due diligence mechanisms and the lack of sanctions (UN Doc. A/69/338 2014: 10). In particular, the limited scope of application marks the Guidelines as insufficient to regulate the UN's use of PMSCs. Therefore there is – according to the UN Working Group - still a need for

an international legally binding convention (UN Doc. A/69/338 2014: 8, 22). At the fourth meeting of the open-ended intergovernmental working group to consider the possibility of elaborating an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies the UN's use of PMSCs was also discussed. The Under-Secretary-General for Safety and Security presented the report of the United Nations Department of Safety and Security. Thereby the ultima-ratio-principle was stressed several times, as well as the fact that there are only three missions where armed security firms are used (Afghanistan, Haiti and Somalia) and the UN's use of PMSCs was classified as a drop in the ocean. Based on the above this conclusion is not acceptable.

Legal basis

UN Charter

The UN Charter does not contain any provision with respect to peacekeeping operations (Feurle 2008: 33). Nevertheless UN peacekeeping operations are widely accepted as a legal instrument (Oswald/Durham/Bates 2010: 3). Neither it is possible to qualify them as chapter VI (pacific settlement of disputes) nor as chapter VII (action with respect to threats to the peace, breaches of the peace and acts of aggression) measures. This finds its expression in the term Chapter VI ½ measures, established by the former Secretary-General Dag Hammarskjöld (Bures 2008: 16). Chapter VI was discussed particularly with respect to early peacekeeping operations, which aimed to monitor ceasefire agreements (Smith 1993: 3). In contrast, Chapter VII was discussed with respect to peacekeeping operations of the newer generation. However, chapter VI cannot be invoked, since it is not in line with the possibility to use force as it is required for peacekeeping operations (Lüder 2004: 15). Chapter VII cannot be invoked either, since peacekeeping operations are not considered to constitute enforcement measures in terms of Art. 39 ff. UN Charter (Landshuter 2007: 53). Furthermore, it is questionable to invoke Art. 51 (Chapter VII) UN Charter, since it allows the use of force only until the Security Council has made a decision. Therefore, as soon as the Security Council has adopted the mandate, it is no longer possible to invoke Art. 51 UN Charter. (Landshuter 2007: 53). The ICJ addressed this question, too. It did neither refer to Chapter VI nor to Chapter VII, but instead claimed the Charter as a whole to be the legal basis for peacekeeping operations and therefore made reference to the implied powers doctrine (Landshuter 2007: 53).

Implied powers doctrine

To ensure that international organizations can fulfill their duties, specific powers are explicitly granted to them in the constituent documents. Prima facie they have only these powers which are mentioned in the constituent documents (Shearer 1994: 547). However, the implied powers doctrine determines the powers of international organizations on basis of their duties (von Arnauld 2012: 49). According to the implied powers doctrine, international organizations need to have the powers which are necessary to fulfill their duties effectively (Ruffert/Walter 2009: Rn 74). This is necessary since the constituent documents come with gaps (Klabbers 2009: 58), so the implied powers doctrine supplements the delegated powers doctrine (Kelsen 1957: 330) The initial point

of the implied powers doctrine is the need for interpretation of the wording of the UN Charter. In the context of international organizations, the teleological interpretation is the prevailing one. The effet utile, which is also mentioned in Art. 31 I and 33 IV of the Vienna Convention on the Law of Treaties, needs to be taken into account to determine the scope of its powers (Ruffert/Walter 2009: 73). The ICJ discussed this question several times. In its advisory opinion Reparation for Injuries Suffered in the Service of the United Nations the ICJ first compared states and international organizations and then focused on the implied powers doctrine. Under international law, the Organization must be deemed to have those powers which, though not expressly provided in the Charter, are conferred upon it by necessary implication, as being essential to the performance of its duties. This principle of law was applied by the Permanent Court of International Justice to the International Labour Organization (…) and must be applied to the United Nations. (ICJ Advisory Opinion Reparation for Injuries Suffered in the Service of the United Nations 1949: 182). The benchmark being essential to the performance of its duties has not been without criticism. Judge Hackworth wrote in his dissenting opinion: Powers not expressed cannot freely be implied. Implied powers flow from a grant of express power, and are limited to those that are "necessary" to the exercise of powers expressly granted. (Hackworth ICJ dissenting opinion Reparation for Injuries Suffered in the Service of the United Nations 1949: 197 ff.).

Despite this criticism, the wide understanding of the implied powers doctrine could prevail, as it is demonstrated in the subsequent decisions of the ICJ. In its advisory opinion Effect of Awards of Compensation Made by the United Nations Administrative Tribunal the ICJ confirmed its position once more (ICJ Advisory Opinion Effect of Awards of Compensation Made by the United Nations Administrative Tribunal 1953: 56). In its advisory opinion Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276, the ICJ once more confirmed that the powers of the UN to maintain international peace and security are not limited to the powers mentioned in Chapter VI,VII, VIII and XII (ICJ Advisory Opinion Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 1970: 52).

To conclude: The ICJ accepted the implied powers doctrine as a means to determine the powers of the United Nations whereby the requirements necessity and essentiality need to be stressed particularly (Janaby 2015: 167).

Specific case of PMSCs

Based on the findings above, the implied powers doctrine constitutes a legal basis for peacekeeping operations. However, the question arises if or to what extent PMSCs may be used in peacekeeping operations. Here it is necessary to differentiate between PMSCs as peacekeepers and PMSCs as contractors. Hence, depending on the classification of the PMSCs as peacekeepers or as contractors different requirements and issues need to be discussed. Likewise, it must not be neglected to analyze the use of PMSCs in light of the peacekeeping principles – the holy trinity – consent, impartiality and use of force only for self-defense.

The requirements for the application of the implied powers doctrine – necessity and essentiality – need to be reviewed for the specific case of PMSCs. If the Security Council determines a situation according to Art. 39 UN Charter and member states do not supply sufficient troops or troops which do not have the requisite training or equipment a case of necessity is given. The issue of insufficient supply of troops has already been addressed in the Brahimi report and in the New Partnership Agenda of the DPKO. They had agreed that the commitment of the member states needs to be evaluated already during the planning stage in order to avoid discrepancy between the actual demand and the resources provided (UN Doc A/55/305–S/2000/809; 1). Likewise, the supply with troops at the requisite pace could constitute necessity in terms of the implied powers doctrine (Cameron/Chetail 2013: 32).

PMSCs as peacekeepers

When PMSCs are used as peacekeepers, basically the same considerations apply as to the question of the legal basis of peacekeeping operations in general. However, with respect to PMSCs there is one specific requirement of the implied powers doctrine, which needs to be stressed in particular. The application of the implied powers doctrine must not contravene fundamental rules and principles of international law. So the question arises whether there is a principle under international law stating that force authorized by the Security Council may only be exercised by states. The UN Charter neither allows nor prohibits the use of force by PMSCs (Cameron/Chetail 2013: 33). Art. 48 UN Charter is invoked to demonstrate that only states may exercise force authorized by the Security Council (Janaby 2015:182). Although Art. 48 UN Charter stipulates a member state's obligation to carry out the decisions of the Security Council, it cannot be concluded that this implies the exclusion of the delegation to PMSCs. The drafting process of Art. 48 UN Charter, during which the inclusion of a reference to Art. 43 was discussed, supports this assumption (Simma et al. 2012: 1377), but at the same time Art. 48 could not be invoked as a legal basis for the delegation of the exercise of force to PMSCs, here the implied powers doctrine needs to be invoked once again. Thereby the rules of delegation have to be respected. The delegating authority needs to possess the delegated power (delegatus non potest delegare). The authority of the Security Council to create peacekeeping operations is now widely accepted. Moreover, the control over the mission must rest with the Security Council, no matter if the use of force is exercised by PMSCs or by states (Cameron/Chetail 2013: 33). As long as the decision making power to initiate peacekeeping operations rests with the Security Council, the delegation of power is regarded as legitimate (Sarooshi 1999: 238 f.). To fulfill these requirements, sometimes a very low benchmark, like periodical reports and the possibility to withdraw the authorization at any time, is set (ECHR 2007: Para 134). Based on this, an exclusion of PMSCs as peacekeepers is not justified.

PMSCs as contractors

When PMSCs are used as contractors (logistics, supply, guards etc.), different considerations need to be made. This time it is not about delegation, it is about treaty-making powers. The treaty-making power could be based on the constituent documents or the implied powers doctrine provided that the treaties serve the goal of effective functioning of the international organization

and promote its purposes and principles (Khan 1969: 74). With respect to the treaty-making powers of the UN, the Charter only provides indications, e. g. Art. 43, 57 and 63 UN Charter. In practice the UN signs far more treaties than envisaged by the founders, especially in the context of peacekeeping operations (Klabbers 2009: 256). The UN uses implied powers more frequently as express powers. The international personality and treaty-making capacity of the UN was expressed by the ICJ in the Reparation for Injuries Suffered in the Service of the United Nations case.

To conclude: Neither the exclusion of the use of PMSCs as peacekeepers nor the use of PMSCs as contractors can be justified. Nevertheless, the application of international humanitarian law may prove otherwise.

The holy trinity

The holy trinity is composed of three requirements: Consent of the host state, impartiality and the use of force only in self-defense.

Consent of the host state: The consent of the host state was a mandatory requirement especially with respect to peacekeeping operations of the first generation. Robust peacekeeping operations no longer require the consent of the host state. But even in these missions, the UN was always endeavored to obtain the host state's consent, since this enhances the prospects of success. Thereby the scope of the consent is understood differently. While some authors limit the consent to the mission as such, other authors see the possibility to split the consent, so the host state could consent to the mission but reject to the commitment of specific member states or demand territorial or functional restrictions. Hence, they could also reject to the involvement of PMSCs. Although the Secretary-General is not bound to the position of the host state, the UN nevertheless would intend to respond to the host state's request (Cameron / Chetail 2013: 22f).

Impartiality: Impartiality does not only refer to political issues, but also to economic interests. With respect to PMSCs, the focus rests on economic interests, in particular the exploitation of mineral resources. However, this does not allow the conclusion that PMSCs are less suitable for use in peacekeeping operations. Moreover, according to the latest UN documents, impartiality is now defined as compliance with the principles of the UN Charter.

Use of force only for self-defense: The use of force is the most controversially discussed characteristic of peacekeeping operations. According to the Capstone Doctrine, the restriction of the use of force to self-defense is still valid, although it is now interpreted clearly broader – as defense of the mandate with all necessary means. Due to this almost nebulous understanding, the use of PMSCs appears questionable, particularly if PMSCs act as peacekeepers and not as mere contractors. As self-defense is understood as defense of the mandate, PMSC personnel needs to participate directly in hostilities. With respect to its status under international law – civilians - this seems unacceptable and is opposed to the international consensus that PMSCs shall not take part in any actions which could amount to a direct participation in hostilities (Sossai 2014: 407). According to Janaby, self-defense measures do not amount to a direct participation in hostilities (Janaby 2015:153). To be classified as a direct participation in hostilities, belligerent nexus needs

to be demonstrated. In order to meet the requirements of belligerent nexus, an act must be specifically designed to directly cause the required threshold of harm in support of a party to the conflict and to the detriment of the other (Melzer 2009: 59). Measures of self-defense lack belligerent nexus (Melzer 2009: 61). According to this, peacekeeping operations could not amount to a direct participation in hostilities. However, this argumentation is too-short sighted for three reasons. First, self-defense requires an illegal attack. If the target is a military one, an attack could not be classified as illegal and there is no right to self-defense at all. There are several cases where the determination if the target is a civilian or military one could change ad hoc and the personnel hired to protect the target became legal targets and are no longer allowed to invoke the principle of self-defense. Second: The very broad definition of self-defense with regard to peacekeeping operations was not taken into account. Defense of the mandate allows using force on a tactical level. Therefore defense of the mandate exceeds the common understanding of self-defense and the statement that peacekeeping operations could not amount to a direct participation cannot be sustained. Lastly, this understanding is not in line with the Secretary's Bulletin concerning the applicability of international humanitarian law, which assumes the direct participation in hostilities (Heinze / Steele 2009: 141)

Conclusion

The UN does not (yet) recruit PMSCs as front-line peacekeepers, but their use is not restricted to the protection of peacekeepers and UN premises either. PMSCs are used in various ways and have an ever-increasing impact on peacekeeping operations. The implied powers doctrine can be invoked as legal basis for the use as peacekeepers as well as for the use as contractors. The use of PMSCs does not contravene any principle or fundamental rule of international law, rather the use of PMSCs can be described as a necessary and effective tool to maintain international peace and security and therefore to promote one of the major purposes of the United Nations. Nevertheless, the general operational capability of PMSCs does not exclude that the application of international humanitarian law and human rights law may lead to a different result on a case-to-case basis.

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