Military Drones and the EU

The role of unmanned systems in the European Union's defence developments

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Cover photo: German Defence Minister Ursula von der Leyen and her French counterpart Florence Parly (L) pose next to a MALE drone made by Dassault and Airbus during the ILA Berlin International Aerospace Exhibition at Schoenefeld airport near Berlin on April 26, 2018.
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Abbreviations

CARD	Coordinated Annual Review on Defence
CDP	Capability Development Plan
CFSP	Common Foreign and Security Policy
CSDP	Common Security and Defence Policy
ECAP	European Capability Action Plan
EDA	European Defence Agency
EDF	European Defence Fund
EDIDP	European Defence Industrial Development Programme
EP	European Parliament
EPF	European Peace Facility
ESDP	European Security and Defence Policy
EU	European Union
FP	Framework Programme
GoP	Group of Personalities
HALE	High Altitude, Long Endurance
ISTAR	Intelligence, Surveillance, Target Acquisition and Reconnaissance
ISR	Intelligence, Surveillance and Reconnaissance
MALE	Medium Altitude, Long Endurance
MPCC	Military Planning and Conduct Capability
MS	Member States of the European Union
NATO	North Atlantic Treaty Organisation
PADR	Preparatory Action on Defence Research
PESCO	Permanent Structured Cooperation
RPA	Remotely Piloted Aircraft
UAV/S	Unmanned Aerial Vehicle/System

Executive Summary

As the international security environment becomes increasingly more complex and contested, the European Union has begun to make significant progress on its security and defence policies. Though it is far from establishing a European Army, the EU is being increasingly adapted for military purposes. New instruments related to the integration, financing, and coordination of military research, development, and operations have been created in quick succession. Military unmanned systems, or drones, have taken a central stage within these developments. Their development is considered to be essential for future military operations, for the EU's strategic sovereignty, as a future export product, and as a testbed for closer EU cooperation. However, the use of these systems has also raised serious legal, ethical, and humanitarian concerns. Armed drones have been extensively used to carry out extrajudicial killings, have caused numerous civilian casualties, and there are ethical implications of having a relatively cheap and risk-free tool to use lethal force with. It is therefore worth examining how the developments within the EU might affect the use of military drones by Member States.

The findings of this report show that within the EU there is a clear intention to develop armed drones, but that discussions or policies that guide their use are absent. This gap is concerning, as the way in which the EU Defence is developing does not bode well for issues of accountability and transparency.

Firstly, the EU processes that have guided the development of drones so far were civilian in name, but the defence industry has had significant influence behind closed doors. In the new European Defence Fund (EDF), in which armed drones also feature prominently, the European Parliament's political leverage and ability to scrutinize have been reduced. This has prevented an open debate about how the systems currently under development may be used, and what the implications and risks accompanying the use of such systems may be.

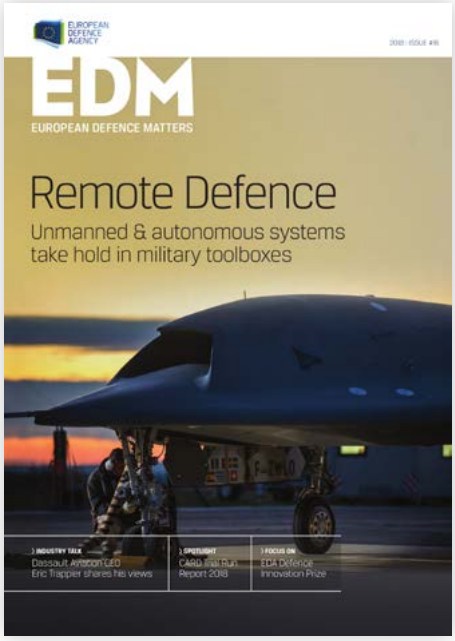
Secondly, despite the growing role of the EU Common Security and Defence Policy, the European Parliament's involvement in decision-making or ability to scrutinize remains as limited as it is. More oversight is needed, however. Some European Member States have already acquired armed drones, carried out targeted killings, or provided assistance to the US in its lethal drone programme. As the EU's capacity to act as a security provider is growing and cooperation among EU Member States is strenghtened, these issues raise questions on what future EU Defence will look like.

These developments underscore the need for more scrutiny, transparency, accountability, and clear policies on the use of armed drones on both national and EU levels.

Introduction

Instability and conflict along the EU's borders, refugee flows, terrorism, hybrid threats and the annexation of Crimea have all contributed to a sense of insecurity in European capitals. Following calls from previous US administrations to take more responsibility in burden sharing and the volatility caused by Brexit and the election of US President Donald Trump, the EU is increasingly expected to amplify its own foreign and security policies. İn response, Member States have taken steps to significantly deepen their defence cooperation within the EU. Policies and frameworks at the European level now help steer the coordination and integration of Member States' militaries, setting the agenda that determines which future challenges need to be addressed and which capabilities need to be developed.

This momentum continues to build up. As the European Commission noted with regard to European defence in June 2017, "More has been achieved in the past 2 years than in the last 60."[1] Since 2017, the ambition for deepening European defence has intensified and has been matched by equally ambitious defence spending. Vast amounts of EU funding have now been allocated for defence research and investment raising important questions about how the EU will influence the security and defence policies of Member States. Unmanned systems, commonly known as drones, play a prominent role in these developments. But these investments in drone technology have not been without criticism, as there are ethical, strategic and legal concerns about the growing use of drones in counter-terrorism and military operations. At the same time, critics also express concern about the decision-making processes behind these investments.[2]



The front cover of the European Defence Agency's magazine in 2018, featuring the nEUROn military drone with various European flags on its chassis.

So where exactly is the EU's security and defence policy headed, how will such systems be used and what are the implications?

To find an answer to these questions, this report will analyse the current plans and policies for the EU's military capability agenda. Then the report will seek to place these developments in the context of the EU as a military actor and security provider. The increased reliance on unmanned systems in these policies raises important questions about the implications of their use in military and counter-terrorism operations.

1. Armed Drones

The use of unmanned aerial vehicles (UAVs), also called remotely piloted aircraft (RPA) but more commonly known as drones, continues to increase. Available in varying forms and sizes, from hand-held drones to vehicles the size of a passenger plane, they use powerful cameras and sensors to observe and gather data. These functions make them useful for various civilian purposes, such as policing, environmental monitoring or disaster rescue. The same capabilities, when combined with long flight endurance and the ability to carry weapons, also make them especially useful for military operations. The medium altitude, long endurance (MALE) drones in particular have become highly popular for monitoring and striking suspected terrorist and armed groups in remote areas. Without pilots on board, they can carry out operations in large swathes of territory without risk to military personnel, which is why they have become the weapon of choice within the broader trend towards warfare aimed at minimising risk and costs. Drones are now the main weapon in the US's counter-terrorism wars[3] and are rapidly proliferating across the globe.[4]

The development and acquisition of military drones is not problematic in and of itself, and improved situational awareness can support better decision-making and more precise targeting. However, the use of armed drones for targeted killings by the US, the UK, Turkey, Israel and the United Arab Emirates[5] has been accompanied by serious ethical and legal issues.

ISSUES OF TRANSPARENCY AND LEGALITY

States that use these armed drones often try to keep the public in the dark[6] about the details of targeted killings, hiding basic information on who is being targeted and why, the legal and policy rules that govern such drone strikes, or information related to accountability procedures.[7] However, international human rights organisations[8] and journalists conducting independent research have consistently found higher numbers of civilian casualties than these countries would admit: US drone strikes have caused thousands of civilian casualties, hundreds of whom were children.[9]

In the US, the terminology has also been adapted to accommodate the use of drones. For example, boys from the age of 14 who are killed during a drone strike are now automatically counted as 'military-aged males' and no longer as civilian casualties.[10] Moreover, drone strikes have taken place both in conflict zones, such as Afghanistan, and outside war zones without clear legal justifications, such as in Somalia.[11] The use of force outside of conflict zones could set a dangerous precedent in human rights violations[12] for other countries to follow, and risks undermining established international legal frameworks on the use of lethal force.

Despite slight improvements in the safeguards near the end of the Obama administration, the Trump administration has reduced transparency measures, frustrated public oversight and accountability, as well as removed the requirement that only high-value terrorists should be targeted, further increasing the risk of civilian harm.[13] Only recently the United States Africa Command and the Pentagon, both involved in the US drone programme, have launched reviews of the ways in which they track civilian casualties, admitting that mistakes have been made.[14]

EXPANDING USE

But the US is not alone in this. The number of countries possessing armed drones is growing year on year, as is the number of drone strikes being carried out. More states have also started the domestic production of military drones, such as Turkey and Iran.[15] The European Union and its Member States are developing and acquiring armed drones too. The United Kingdom has already carried out targeted killings.[16] France and Italy have decided[17] to arm their drones. Other European countries have also moved towards acquiring drones that can be armed or they have expressed willingness to do so. Unmanned systems, both armed and unarmed, now feature heavily within EU joint research and development projects and frameworks, receiving large amounts of funding.

SOCIETAL RESISTANCE

European civil society organisations have previously criticised the EU's use of civilian research funds for drone projects that the arms industry profits from[18], as well as the possible implications for surveillance and human rights.[19] The involvement of EU Member States in the US targeted killing programme has been criticised as well.[20] Over 25 NGOs that are affiliated to the European Forum on Armed Drones[21] have, together with the European Parliament and in support of recommendations made by UN Special Rapporteur Heyns[22], called on the EU to formulate clear positions on the legal and ethical frameworks for the use and export of armed drones.

The development of armed drones combined with the EU's ambition to increase the scope and intensity of military cooperation raise important questions about the EU's views and policies regarding their use. To find out more about what kinds of systems the EU is developing and the reasoning behind this, it is necessary to have an overview of EU drone developments. This report begins by giving a historical overview of how drones became part of the EU's research and development efforts and how they relate to closer EU security cooperation. It then proceeds to examine the growing role of the EU as a security provider and how this relates to the use of armed drones. The report concludes with recommendations on how to ensure armed drones are developed, used and exported in ways that safeguard international law and human rights.

2. The EU's Road to Drones

Within the EU, the ambition to become a stronger global actor with higher defence spending has been followed up with a push for more cooperation and collaboration in developing military capabilities. European cooperation on defence systems is not new, but the depth of the involvement of EU institutions is. Starting from the end of the Cold War and the Yugoslav wars, the EU and its Member States gradually moved towards closer cooperation, delegating more and more processes related to capability development to EU institutions along the way.[23]

Unmanned systems were present from the beginning, and have continued to play a key role, culminating in the game-changing European Defence Fund in 2020. As will be shown, Member States, the European Council and the European Commission have all shied away from discussing the possible military use of drones, despite overwhelming signals that the unmanned systems currently under development are not meant for civilian use only.

1999: European Security and Defence Policy
2001: European Capability Action Plan
2003: European Security Strategy

Though the EU has directly funded civilian research projects dominated by defence companies, until 2016 the EU was not using the EU budget to fund military research. The projects covered here involve dual-use technologies, funding for which has been justified as research in the 'security' domain, not 'military'. The erosion of the distinction between internal and external 'security', and the inclusion of fighting terrorism as an aspect of 'security' have enabled the funding of drone technology, which has become so notorious for its military use.

For more, see Statewatch: Arming Big Brother.

This chapter is organised around distinct periods and turning points in the EU's capacity and interest in unmanned systems, beginning in the 1990s, when the United Kingdom changed its attitude towards autonomous European military capabilities.[24] It ends with a summary of the drone developments which have taken place, and which are scheduled to take place in the foreseeable future.

2.1 Capability Gap and Unmanned Systems (1998-2004)

Though EU treaties contain the foundations for a common European security and defence policy,[25] formal European cooperation in security and defence began in earnest in 1998 when, in response to armed conflict in Kosovo (1998-1999), France and the UK jointly declared a wish for the EU to "have the capacity for autonomous action, backed up

by credible military forces" and "which are supported by a strong and competitive European defence industry and technology."[26] This led to the formulation of a European Security and Defence Policy (ESDP) a year later. The ESDP successfully[27] helped foster cooperation between EU Member States in security and defence, and enabled the EU to send troops for crisis management outside of its borders.

The EU's involvement in the development of drones also began in 1998, taking place within the framework of the EU's fifth Research and Innovation Funding Programme (FP5).[28] The funding was limited to 13 projects, which were explicitly not to be defence-related, though they could have a dual-use nature.[29] Though officially 'civilian', the scope of some of these projects went beyond quadcopters and small UAVs traditionally used for scientific or commercial purposes, and covered projects such as the high altitude, long endurance (HALE) drones typically used for military intelligence gathering.[30]

2.1.1 NEW MILITARY GOALS AND INTEREST IN DRONES

The need for drones as a military capability was already felt among leading EU Member States in the first few years of EU defence cooperation. In 1999, European leaders met in Helsinki and expressed the ambition of establishing a joint military force by 2003 that would be able to intervene rapidly, carrying out tasks such as peacekeeping and crisis management.[31]

However, a shortfall in military capabilities necessary to achieve these goals[32] was quickly identified by the Member States, which led to the establishment of the European Capability Action Plan (ECAP) in 2001. In this plan, Member States agreed on a voluntary basis to improve their military capabilities and bring current and future projects in line with the needs of both national and multinational aims. That same year, "In part in response to the September 11th attacks on New York", France and the UK expressed their interest in addressing three specific shortfalls, one of which was drones.[33]

This interest was quickly followed up by a report by an influential lobbying group in 2002.[34] The European Advisory Group on Aerospace[35], which included members of the European Commission, the European Parliament, the High Representative for the CFSP (Common Foreign and Security Policy) and CEOs from the defence industry, echoed the desire of France and the United Kingdom, and noted that UAVs would be critical for carrying out the tasks and military actions to which the EU had now committed itself:

> *"The nature of warfare is going through fundamental change, driven by the need to maximise the efficient deployment of military forces, increase surveillance against the threat of terrorism, give a flexible response to such a threat and recognise the vital need to minimise military and civilian casualties resulting from military action. This scenario involves the use of unmanned aircraft systems for both surveillance and force projection. [...] Deployment of unmanned systems can provide a reliable and cost-effective means of [civilian applications] with considerable market potential. Both civil and defence applications can and should be met by the European aerospace industry."*[36]

The advisory group particularly emphasised the United States' use of unmanned systems, noting that without such capabilities, Europe would be limited when carrying out independent military action.

"The US has so far made the greatest advances towards (the development) and deployment of unmanned systems. Unless Europe can build its own independent capability in this area, albeit at an affordable lower capability level, there will be severe limitations both in terms of being able to play a significant role in military operations alongside the US or, most significantly, being able to mount independent actions. The key issue here will be interoperability amongst the European countries as well as with the US and NATO."

Following the advice of the group[37], 19 working groups composed of different EU countries were set up that same year to address military capability shortfalls. One of these groups dealt with "Unmanned Air Vehicles (UAV)/Surveillance and Target Acquisition (STA) Units"[38], and another concerned "UAVs (HALE, MALE and tactical UAVs)". The other 17 groups focused on other areas, including air capabilities, intelligence gathering, helicopters and special operation forces, though the UAV groups attracted the most interest from Member States.[39] Despite early momentum, the political will to commit to investments waned. Awareness among Member States that the 'bottom-up' approach, dependent on political impetus from Member States themselves, was not working eventually gave rise to a 'top-down' approach, through what would become the European Defence Agency (EDA).[40]

2.1.2 ARMED DRONE DEMONSTRATORS

Member States also began to undertake efforts to pursue both the development of unmanned systems and closer EU cooperation. The French government, building upon its call for more European cooperation and UAV technology, launched a programme with the aim of demonstrating the viability of critical technologies, as well as "the build-up of a clear European defence identity by fully opening it to cooperation" with non-French actors. Though not part of EU institutions, the programme involves six EU countries, each providing their niche technologies and getting more "value for money".[41] The drone at the centre of this programme, called the nEUROn, is capable of deploying arms, but the aim is "not to perform military missions" but to demonstrate effective "technical solutions" for the development of future combat aircraft, according to the lead company.[42]

In 2003, Germany and Spain began the joint development of another armed drone technology demonstrator. The 'Barracuda' made its first test flight in 2006[43] ; the year in which the United Kingdom began the development of the 'Taranis', another stealth armed drone demonstrator.[44] Both projects continue to be in development as of October 2019.

2.1.3 DRONES AND CIVILIAN-MILITARY SYNERGY

The UAV capability gap identified by Member States was also seen as an issue by the European Commission, which had financial arguments for tackling it. In March 2003, the European Commission released a communication decrying the lack of "real military capability" that could be fielded by Member States given what they were spending, especially compared to the 'value for money' that the United States was getting. The Commission proposed coordinating defence investments and opening up the internal market to encourage the exchange of military equipment and research, noting:

> *"...technology transfers between the civilian sector and the defence sector remain minimal. To remedy this, there is a need to improve the coordination and coherence of security-related research at European level through the exploitation of civil-military synergies."*[45]

Mockup of Dassault Neuron at the Paris Air Show 2009

Although showing awareness that this might infringe on legal principles regarding export controls of dual-use goods and technologies, the Commission stated that "care should be taken in future to ensure that these controls do not hamper the competitiveness of the EU defence industries".

The need for the joint development of UAVs was also taken up in the new EU outlook on security issues. In December 2003, the European Security Strategy was adopted, which officially shifted the security paradigm from the 'old' threat of Cold War military invasion to the threat now posed by armed groups and terrorist networks. The strategy identified issues such as failed states, international criminal networks, regional conflicts, the proliferation of weapons of mass destruction, and terrorism as key threats to the EU, and noted that the EU would have to become more active in deploying the "full spectrum of instruments" in pursuing strategic objectives, including military activities and instruments.[46]

> *"With the new threats, the first line of defence will often be abroad. The new threats are dynamic. The risks of proliferation grow over time; left alone, terrorist networks will become ever more dangerous. [...] As a Union of 25 members, spending more than 160 billion Euros on defence, we should be able to sustain several operations simultaneously. We could add particular value by developing operations involving both military and civilian capabilities."*[47]

The development of such capabilities formed the basis for the creation of a new advisory group that same year, the so-called Group of Personalities (GoP).[48] Consisting of the CEOs of military-industrial firms, representatives of ministries of defence, and members of the European Commission and European Parliament (EP), the GoP was set up to provide the EU with 'guidance' in its security

research. Their report published in 2004 lamented the "dividing line" between civilian and military research, noted how UAVs can be used both by coast guards and armed forces in crisis management operations, and further on, how new technological opportunities would "enable us to neutralize" threats.[49]

In short, ever since 2003 drones have been very much part of efforts to advance and meet the new ambitions of the EU's security policies, amid concerns over the lack of military UAV capability in comparison with the United States. The policies and funding for the development of UAV technology were spearheaded based on their potential for civilian use. But the influence of the defence industry[50] in setting up these policies, combined with the expressed desire among key Member States for armed drones, suggests the development of civilian UAV technology serves more as a precursor for (armed) military drones.

The push for military drones, combined with the promotion of collaboration within the European defence industry for financial and interoperability reasons, led to the call in the 2003 Security Strategy for an EDA. This action was approved in July 2004 and the EDA became operational in 2005.

2.2 EU-Supported Drone Development (2005-2016)

2005: European Defence Agency
2008: Capability Development Plan

The EDA plays a crucial role in promoting collaboration amongst Member States in their efforts to improve their defence capabilities.[51] It was set up in 2005, in part as a result of lobbying by major European aerospace and defence companies, which expressed worries about declining EU defence spending. The aim was to strengthen the European defence industry, develop military capabilities and promote research in strategic technologies.

In the same year, UK officers embedded with US troops started operating US armed drones over Iraq and Afghanistan, underscoring the continued need among Member States for armed drones.[52] It is not surprising then that, from the start, the EDA identified UAVs as one of its four key flagship programmes[53] and that it awarded its very first contract to a consortium led by a Finnish aerospace and defence company for carrying out a technology study on long-endurance UAVs and related technologies.[54]

Aside from the EDA, the EU's own funding for civilian research and innovation steamed ahead under the 7th Framework Programme (FP7), which lasted from 2007 to 2013. The number of drone-related projects in the new 'Security category' grew to 18, often coordinated by defence companies and national defence departments.[55] These drone projects received a disproportionate share of EU funding [56] and were justified in terms of their perceived necessity for border management and surveillance. The EU has frequently justified the development of unmanned systems by pointing to the need to strengthen Frontex, the EU's civilian border management organisation, and 'manage' its borders in the light of migration flows across the Mediterranean. Often however, these systems, developed by the defence industry, have a dual-use aspect and could also be deployed for military operations.

In terms of the EU's military capability planning, the ECAP was followed by a new Capability Development Plan (CDP) under the auspices of the EDA in 2008. Similarly to the ECAP, the CDP is meant to identify future trends in defence challenges and opportunities, inform Member States' national defence planners about the future capabilities they will require and should prioritise, and identify areas for cooperation within EU frameworks.[57] The decisions to invest and define needs and priorities remain in the hands of Member States, but at the EU level, the CDP now serves as the key reference. Its first iteration in 2008 specifically identified the need for "intelligence surveillance and target acquisition architecture", and "deployable airpower" for European military operations, amongst other things.[58]

2.2.1 EURODRONE AND STRATEGIC AUTONOMY

Apart from the EDA's influence in planning which capabilities need to be developed and in coordinating that development, it also became more involved in how these capabilities might be used. In 2010, the European Commission and the EDA together held a High-Level Unmanned Aircraft Systems Conference, which was described as "the first European joint civil/security/defence initiative in the field of UAS".[59] The EDA's brochure for the event notes how UAS will be a key element for present and future Common Security and Defence Policy (CSDP) operations.[60] In a series of workshops held with the industry in 2011, a policy officer at the EDA mentioned during a speech that the EU should foster a European drone industry, as "interest in UAS has grown dramatically since their deployment to the conflicts in Afghanistan and Iraq and the demand for the military capabilities they bring has exceeded supply."[61] The use of UAS in Afghanistan and Iraq has however extended far beyond just intelligence, surveillance and reconnaissance (ISR) tasks, and the lack of any mention of the most notorious aspect of drones, namely their deployment to carry out strikes, is a glaring omission that prevents debate on the issues surrounding their use.

In 2013, the EDA[62] noted that in accordance with a decision made by Member State leaders, drones would again be one of four key defence capabilities on which it would be focusing. That same year, the EDA formed a 'drone users club' [63] which aims to facilitate cooperation among Member States [64] who use, or are planning to use, the MALE type of drones that are most commonly used for drone strikes. In 2013, Member States also endorsed an EDA roadmap for the development of a European MALE drone.[65]

Eurodrone

As previously mentioned, EU Member States still rely primarily on imports from the United States and Israel for their armed MALE drone capabilities. The proven track record of these MALE drones, their short-term availability and compatibility requirements have been reasons for EU Member States to purchase them. However, this has put the EU's own military aerospace industry at risk, according to the defence industry itself. By relying on imports, the EU is allegedly losing the technical expertise and capability to develop its own drones at a time when EU Member States want to deepen their cooperation in defence development. Germany, France and Italy, all of which have imported MALE drones, agreed in 2013 to cooperate on a UAV. [66] Two years later, these countries jointly launched a study which culminated in the European MALE RPAS project. The 'Eurodrone' will be "operated worldwide to especially support intelligence, surveillance, target acquisition and reconnaissance missions", and will also be able to carry arms.[67] Spain and the Czech Republic have joined the development of this drone since then, and it is now expected to be operable in 2025.[68] It has been cited by the EU as an example for other defence cooperation projects. The European Defence Fund, discussed below, even describes the Eurodrone project as a "crucial capability for Europe's strategic autonomy".[69]

The European MALE RPA revealed in 2018.

The Eurodrone's role in 'strategic autonomy' also refers to the capability which sets it apart from other EU-supported drone projects: the ability to carry arms, and hence provide an alternative to the US's Reaper and Predator drones. Depending on these imports for an armed drone capability poses risks, as became clear when Italy's decision to weaponise its US-built drones had to be approved by the US Department of State, which gave its approval four years after Italy requested it.[70] The then German Defence Minister and soon to be President of the European Commission Ursula von der Leyen noted that:

> *"The goal of the Euro-drone is that we can decide by ourselves in Europe on what we use it, where we deploy the Euro-drone and how we use it.*[71]

It is important to note that not only does the EU want to replace imports, it also seeks eventually to export the Eurodrone to other states.[72]

Aside from this flagship project, the EDA runs many other capability development programmes relevant to drones[73], in both civilian and military operations.[74] While the EU has now begun to support the development of military drones through the EDA, the EU's current research programme, Horizon 2020, also continues to support the defence industry in the development of unmanned systems.

2.2.2 CIVILIAN RESEARCH AND MARITIME SECURITY

In December 2013, the Council made a call to improve "the capacity to conduct missions and operations" to further develop the CSDP and rapid response capabilities, and welcomed the operability of the Eurodrone by 2025.[75] The Council also again underscored the importance of using

civilian-military synergies, mentioning in particular how the findings of the research programme Horizon 2020, can benefit defence and security capabilities under the heading of 'dual-use'. Halfway through Horizon 2020, the EU has already spent EUR 190 million on research funding for drone projects, the number of which has risen to more than 100.[76] According to the latest draft work programme, titled 'Horizon 2020: Secure societies - Protecting freedom and security of Europe and its citizens'[77], the drone projects are aimed at collecting data and improving situational awareness in maritime areas.[78]

The use of unmanned systems also features heavily in the new Maritime Security Strategy, which notes how civil and military authorities may share resources and how "remotely piloted aircraft [...] could support the conduct of CSDP missions."[79] This closely matches the 'internal-external nexus' view of security which dominates EU thinking, in which criminal networks, border control and domestic terrorism are linked to international terrorist networks, instability and failing states in the 'neighbourhood'.[80] In this sense, the same unmanned technology developed in 'civilian' research programmes can quickly be adopted for military usage. Frontex is already being equipped with military-grade unmanned systems.[81] These developments support the notion that there is a risk that the EU militarises[82] the issue of migration, preferring surveillance over rescue, and that drones are being perceived as a high-tech panacea to a complex problem.[83]

Seemingly aware of the risks new 'disruptive' technologies create, the Horizon 2020 work programme includes the addendum that "the perception of security, and possible effects of technological solutions on societal resilience" must be taken into account.[84] The document does not specify what these 'effects on societal resilience' could potentially be.

2.2.3 PREPARING FOR EU-FUNDED MILITARY RESEARCH

Though civilian research for the benefit of military capabilities 'through the back door' was in full swing through FP7 and Horizon 2020, in June 2014 the Commission took a significant step by proposing that the EU should fund military research directly through a 'preparatory action' for defence research.[85] Again, drones were specifically mentioned in the section on dual-use capabilities to be developed. To sort out the scope and principles of such a preparatory action, the Commission also proposed setting up another Group of Personalities, a small group of influential current and former politicians, and CEOs from the military-industrial complex. This group convened from March 2015 to February 2016.[86] The Group of Personalities was not registered as an expert group and as a result did not appear in the register for such groups.[87] The final report endorsed the 'preparatory action' and further raised the stakes by proposing a pathway towards the much larger European Defence Fund.

European leaders watch a drone demonstration during the launch of the Permanent Structured Cooperation, (PESCO), a pact between 25 EU governments to fund, develop and deploy armed forces together, at the European Council on December 14, 2017 in Brussels, Belgium.

2.3 Deepening of EU Defence (2017-2019)

The election of Donald Trump as US President and the decision of the United Kingdom to leave the European Union severely impacted EU thinking on a common defence. Uncertainty about the commitment of the US to come to the aid of European countries, as well as the departure of the UK, the country with the second biggest defence expenditure within the EU, pushed Member States to seek further independence on security and defence matters, to increase their capabilities and to deepen their cooperation. A short overview is given below of how new instruments will affect EU Member States' capability development, and how they touch upon unmanned systems.

2017:	Coordinated Annual Review on Defence
2017:	Preparatory Action on Defence Research
2018:	Permanent Structured Cooperation
2019:	European Defence İndustrial Development Plan

2.3.1 COORDINATING MILITARY CAPABILITIES

In May 2017, the Council of the European Union endorsed a process to have Member States voluntarily develop a more structured way of delivering defence capabilities, and to foster capability development that addresses shortfalls. The Coordinated Annual Review on Defence (CARD) aims to do this by having Member States be transparent and provide information on their defence capabilities and spending plans.[88] CARD uses that information to identify areas where Member States can undertake joint capability development.

The THeMIS unmanned ground vehicle, equipped with a machinegun.

2.3.2 JOINT DEVELOPMENT, ACQUISITION AND INTEGRATION

The Permanent Structured Cooperation (PESCO) was established in 2017 and is aimed at increasing defence cooperation between EU Member States, including with regard to military exercises and the development and acquisition of military equipment. PESCO is different from other forms of cooperation in this area as it has *legally binding* commitments between Member States to "join forces on a regular basis, to do things together, spend together, invest together, buy together, act together".[89]

In December 2017, the first 17 PESCO projects were declared, including two on maritime surveillance, and one on maritime autonomous and semi-autonomous systems for mine countermeasures. Interestingly, Estonia, Lithuania and Latvia are developing an unmanned ground vehicle called the THeMIS under PESCO[90] ; a project which has drawn interest from Germany, France, the Netherlands and Belgium too.[91] THeMIS has already undergone live-fire exercises and can be equipped with machine guns, anti-tank missiles and automatic grenade launchers.[92]
The second round of PESCO projects has expanded its scope with regard to unmanned systems. The Eurodrone, which was previously managed by the EDA has become a PESCO project.[93] Like THeMIS, unmanned ground vehicles in general have started receiving more attention. For 2018, one of the priorities of the EDA was to "Upgrade, modernise and develop land platforms (manned/unmanned vehicles)",[94] in addition to the development of air and maritime ISR capabilities.

2.3.3 EU-FUNDED MILITARY RESEARCH

The proposal of a 'preparatory action' by the Commission in 2014, with the subsequent establishment of a Group of Personalities as described earlier, resulted in the launch of the Preparatory Action on Defence Research (PADR) in 2017.[95] Whereas defence research used to take place in joint initiatives by Member States, with PADR the EU began to fund defence research directly for the first time.[96] This significant change has been heavily criticised. Over a thousand researchers have signed a pledge calling on the EU to stop such funding and invest in peaceful means instead.[97] The PADR is meant to assess and demonstrate "the added value of EU supported defence research and technology", and lays the foundation for the massive EU Defence Fund that

will start a year after the PADR ends. It has a budget of EUR 90 million for research in two areas: unmanned systems in naval environments, and soldier systems. The biggest single PADR project is OCEAN2020,[98] which aims to integrate air, naval surface and underwater unmanned systems into fleet operations, and use these in support of interdiction missions.[99]

Another investment programme is the European Defence Industrial Development Programme (EDIDP), established in 2018. It is the precursor to the 'development window' of the European Defence Fund aimed at creating "an interoperable and integrated common defence system – all the more urgent given the current geopolitical situation – by boosting Europe's strategic autonomy in the defence industry and developing a solid common European industrial and technological base."[100] Again, EDIDP reaffirmed that investing in remotely piloted aircraft is one of the top five priorities for European defence. Underscoring the priority which armed drones have in EU defence research, the EDIDP will mobilise EUR 100 million to invest directly in the Eurodrone project.[101]

2.4 Future Plans and the European Defence Fund (2020 onward)

2021: European Defence Fund

The most ambitious plan to date is the European Defence Fund (EDF), described as a "game-changer for strategic autonomy and the competitiveness of Europe's defence industry".[102] Part of the EU budget for 2021-2027, over EUR 13 billion, will be allocated by the EDF for "investments in state-of-the-art and fully interoperable technology and equipment in areas such as encrypted software and drone technology."

Out of this budget, a total of EUR 4.1 billion[103] will be spent on research in these areas through the follow-up to the PADR, This EDF 'research window' will focus on innovative, critical defence technologies and strengthening the defence technology leadership of the EU.[104] In the EDF's 'capability window', another EUR 8.9 billion[105] is earmarked to be spent on the development and acquisition of technology and equipment. This part of the EDF programme will be carried out in what is a follow-up to the EDIDP and is meant to fill the gap between research and production. In February 2019, a provisional agreement between the EP, the European Council and the European Commission detailed how EDF projects will be defined within the framework of the CFSP and the CSDP. [106] Tying the defence investments to priorities set at the EU level would be another step in extending the influence of the EU in defence affairs. In a statement preceding the agreement, drone technology was specifically highlighted as a key area.[107]

Building upon the technology demonstrated by the Taranis, nEUROn and Barracuda technology demonstrators discussed above, European countries recently laid out plans for the next generation of fighter aircraft. France, Germany and Spain are developing the Future Combat Aircraft System, which will make heavy use of drone swarms through manned-unmanned teaming.[108] Meanwhile, the UK is developing the Tempest, an optionally crewed fighter jet which will also use drones as wingmates.[109]

2.5 What Drone Developments Have There Been in the EU?

The desire for unmanned systems appears to have gone hand in hand with the desire for joint EU military capability development. The Balkan wars, where the US deployed MQ-1 Predator drones for ISR purposes for the first time, were followed by the St-Malo Declaration, where the UK and France called for the EU to have its own military capabilities to act. European Member States identified drone technology as a capability shortfall and started investing in drone research and technology.

Though civilian in name, the EU's research funding for drone technology quickly securitised under the influence of the defence industry and advisory groups. The Commission and Council, citing financial arguments and cost-saving opportunities, emphasised 'dual-use' and 'civilian-military synergies' to provide civilian research funding for military unmanned technology as well. Once this connection was laid, another Group of Personalities pushed the envelope by suggesting the direct funding of military research and development in 2016. These efforts culminated in the 'preparatory action' which laid the ground for the European Defence Fund.

Apart from the EU's direct funding, the Member States' own efforts to develop drones were linked to closer EU cooperation as well. The nEUROn drone project was launched not just to demonstrate UAV technology, but also to build a European defence identity and strong collaboration. The EDA prioritised unmanned systems from the outset, and has facilitated training and other projects related to the use of military drones amongst Member States. Similarly Horizon 2020, Ocean2020, PADR, PESCO and the EDF all feature or prioritise drones, which are tasked with different kinds of surveillance for law enforcement and border patrol.

The ability to carry out strikes has been one of the major driving forces behind the development and deployment of drones. The utility of armed drones has led to their quick proliferation, becoming a routine presence in conflicts across the globe. EU Member States currently rely on imports from the US and Israel to fulfil this capability—a reliance they seek to end by developing their own arms-capable drones. Indeed, one of the unique features of the Eurodrone is that it can carry arms.[110] It is not surprising then that the Council considers the Eurodrone "crucial" for the EU's "strategic autonomy".[111]

It is noteworthy that, despite the obvious need for armed drones among EU Member States and the prominence of drone projects in EU defence development, the arms-carrying aspect has rarely been mentioned.[112] Instead, mentions of the projects tend to leave out the capability to strike and focus on their ISR capabilities. The lack of debate has even been noted by the Chief Executive of the European Defence Agency himself:

> ***"Considering the political, legal and also ethical aspects involved,*** *it is worthwhile stressing that the use of force must always abide by international law (including International Humanitarian Law and Human Rights Law) and that this also applies to unmanned and autonomous weapon systems which must always remain under human control. Political, legal or ethical considerations [...] are outside the Agency's mission, work scope and competencies. Political discussions are underway in the appropriate fora (including the UN and the EU) to define common principles and boundaries for the military use of artificial intelligence and autonomous weapons.*

It is important, and urgent, that the research community and industry are provided with the required clarity about the limits in which they can explore the contribution unmanned and autonomous systems could make to strengthen Member States' defence capabilities, and with them European defence.[113] ***"***

As discussed in the first chapter, the use of armed drones has caused significant controversy among academics, [114] civil society organisations and legal experts.[115] Drone strikes have also been the subject of several European Parliament resolutions, which will be discussed in the next chapter. But obfuscation of these details prevents the necessary public and political debates on how armed drones should and should not be used. So what policies are in place, and what can the deepening of the EU's defence integration tell us about how armed drones might be used?

3. The EU as a Security Provider

Though individual Member States maintain a large degree of competence in security and defence matters, the EU already has considerable influence. European institutions are setting ambition levels, identifying priorities, initiating new policies and processes, and coordinating and supporting Member States' activities and capability developments, which all help shape the ways in which the Member States now approach conflicts. This influence is only set to grow.

With regard to unmanned systems, European countries already predominantly use MALE drones for counter-terrorism operations.[116] It is therefore worth analysing how new EU capabilities and frameworks might coalesce with the use of armed drones. In order to do so, this chapter will briefly consider the development of the CSDP and new missions, the use of force in an EU context, the role of parliamentary oversight, the EU's relationship with NATO, and several new instruments which have sprung up in the wake of the EU's renewed ambition. This chapter concludes by providing an overview of how EU defence has developed and what the implications are.

3.1 Joint EU Military Action

The EU Common Security and Defence Policy (CSDP) allows the EU to use Member States'[117] civilian and military capabilities for a host of tasks ranging from crisis management, peacekeeping and peace-making to military advice and assistance, all of which may contribute to the fight against terrorism.

Looking to the future, the CSDP includes a "progressive framing" that "will lead to a common defence", whenever the European Council unanimously decides to do so. A rapidly changing security environment, paired with new technological developments, has already spurred the EU into action. In June 2017, the Commission noted in a document on the future of European defence that the EU had moved "more in the past 2 years than in the past 60". These are not empty words and, as discussed above, significant steps such as PESCO, the European Defence Fund, CARD and other initiatives have already been taken. Since 2003, the EU has launched over 30 civilian and military operations across three continents,[118] and EU forces have already used force, carrying out attacks on land targets in the fight against piracy during Operation Atalanta.[119]

Accountability and Transparency in EU Missions

When an EU mission is launched, the Council entrusts a task to a group of Member States, determining structural things such as command and control. The Member States voluntarily make capabilities available and decide on the particular rules of engagement beforehand according to

their treaty obligations.[120] Even when formally acting on behalf of the EU and under EU operational command, Member States, which have 'effective operational control' over their troops, can be held responsible for their actions.[121]

Accountability for the use of force can suffer if there is a lack of transparency. A lack of information on which forces are responsible for attacks makes it difficult to hold anyone accountable if things go wrong. In multinational coalitions, countries can 'hide in the crowd' by covering each other and refraining from disclosing which country does what.[122] Worryingly, on the first occasion of the EU's use of force in the anti-piracy Operation Atalanta, during which EU forces destroyed boats on Somalia's coastline, the EU did not disclose which countries were involved.[123]

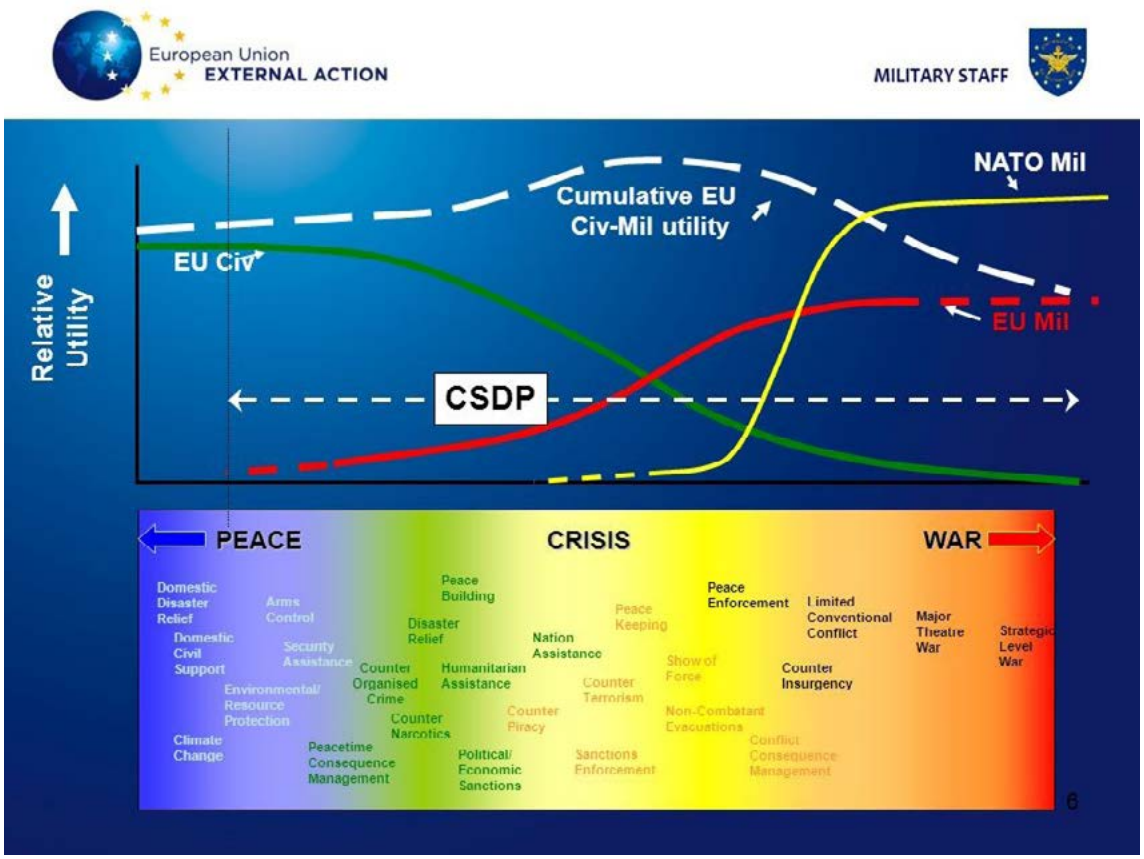
The use of drones in counter-terrorism operations is typically secretive, making it difficult to assess their legality and effectiveness. This is why both transparency and clear policies on the use of armed drones, discussed further below, will be so important in guiding their use.

3.2 EU Military Operations and NATO

The EU forms only a small part of European defence. Despite the mutual defence clause in the EU Treaty and the call of German Chancellor Angela Merkel and French President Emmanuel Macron for a "real, true European Army" in November 2018,[124] NATO is still broadly considered the bedrock of European security. But this does not mean the EU is irrelevant. With interest in EU defence surging, the relationship between NATO and the EU was re-evaluated, which led to a Joint Declaration, "new impetus and new substance", and 74 concrete actions for the EU-NATO strategic partnership. [125] These actions largely focus on ensuring that the EU's initiatives are coherent with similar NATO processes, such as capability development and standardisation. EU and NATO (military) staffs work together, sit in on and observe each other's meetings, and have established a dialogue on counter-terrorism and cooperation regarding terrorist threats.[126]

The EU's Global Strategy recognises the importance of NATO but stresses that the EU needs to be capable of acting autonomously to deal with both internal and external threats and challenges, with full-spectrum "high-end military capabilities" to match this ambition.[127] Specific EU policies to achieve this will be discussed later on, but the point is that the prominence of NATO does detract from the relevance of the EU. In fact, the EU is positioning itself to take up a range of military tasks that can complement NATO. The EU Military Staff envisions the combination of EU civilian and military capabilities as more suited to dealing with the grey-area scenarios between peace and conventional conflicts, whereas NATO would remain the framework for conventional war.

The focus on 'light-footprint' tasks is not surprising given the EU's history with establishing conventional fighting forces. The EU Battlegroups, a standing force meant for rapid deployment in a conflict and for paving the way for a much larger intervention, was set up in 2005 but despite several opportunities has never been used.[128] Member States could never agree on the financial costs or political risks associated with deployment. As conventional conflicts and major theatre war require large-scale deployment of 'boots on the ground', it is not surprising that the EU now focuses on lower intensity situations (e.g. counter-insurgency), which are more suited to a light-footprint approach, such as through the use of (armed) drones. As the EU is moving from being a 'project of peace' and a 'soft power' to a more militarised union that is exploring 'hard power', there are increasing opportunities for the EU to engage in this domain.



Slide from a presentation given by the Director General of the EU Military Staff, Lieutenant General Ton van Osch, on 'The role of the military within the EU Comprehensive Approach to Crisis Management'. 29 March 2012.

3.3 New Military Frameworks

The EU's ambition to become a global security actor is not focused purely on the development of military capabilities for its Member States; it is also about enabling Member States to act. In a short time span, several instruments have been created and improved upon that provide some clarity on where EU defence is heading.

In 2017, after 15 years of disagreements among Member States on a unified EU command structure, the Military Planning and Conduct Capability (MPCC) was established at the request of the European Council.[129] The MPCC has considerable influence as it can draft documents such as the operation concept, the operation plan and the rules of engagement.[130] In 2020, the MPCC may also take responsibility for an executive mission, meaning a mission where combat and the use of force is authorised.[131]

To fund activities in the military and defence domain, the EU currently has two main instruments.[132] Neither is part of the EU budget due to the legal requirement that the EU treaties prohibit any "expenditure arising from operations having military or defence implications"[133] from being charged to the EU budget. The European Peace Facility is a proposed new instrument which would circumvent the EU's rules on funding military activities. In spite of its name, it would provide lethal weapons and training to partner countries, with a EUR 10.5 billion price tag.[134] Much like the deployment of unmanned systems, supporting local partners in conflict areas is a form of engagement in low-cost, low-risk warfare.[135]

Lastly, one of the new PESCO projects is titled the European Union Force Crisis Response Operation Core which contributes to the creation of a "standing intervention force" with a "full-spectrum force package", meant to speed up the EU's ability to manage crises and deploy military forces, including an air force[136] and special operations forces.[137]

3.3.1 TOWARDS A EUROPEAN ARMY?

As previously mentioned, Member States have already agreed to a 'progressive framing' of the CSDP that would ultimately lead to a 'Union of Defence', as embedded in the treaties of the EU. Recently, the rapid developments within EU defence were followed up by calls for a 'European Army' [138] by French President Macron and German Chancellor Merkel, and a 'Defence Union in 2025' by the Commission's President Juncker.[139]

Not all EU Member States are enthusiastic about a 'real' European army, and the requirement for unanimity amongst Member States for CSDP decisions will probably curtail such ambitions. In order to make the EU more effective as a security provider despite this, both the EU and willing Member States have made inroads in developing joint actions that do not require unanimity.[140]

Though discussions about further integration and deepening cooperation among EU military forces often focus on enhanced security and cost-benefit analyses, this also raises questions about which policies multinational forces will adhere too. Without clear policies for the use of armed drones, it is possible that more Member States will engage in practices already set in motion by other countries with regard to targeted killing, and hence contribute to undermining international law.

3.4 Drones, Counter-Terrorism and the Sahel

Due to its proximity and perceived instability, Africa is a particular geographical focus of EU policies.[141] Currently, there are five military CSDP missions in Africa.[142] The only mission which was authorised to use force to protect the civilian population was the advisory mission in the Central African Republic, which was replaced by a trianing mission in 2016.[143] Near the coastlines of Africa, Operation Sophia could use "all necessary measures against a vessel and related assets"[144] to stop human trafficking, undermine organised crime and halt the smuggling of oil from Libya. As mentioned previously, EU forces in Operation Atalanta have already carried out raids to destroy Somali pirate ships moored on the shore. Apart from these operations, the EU's involvement in counter-terrorism efforts within Africa remains mostly limited to the support of other organisations and states.[145]

Despite these missions being relatively limited, research has shown that the character of EU involvement abroad is changing too. CSDP missions have shifted from being value-oriented, (such as fostering democracy and respect for human rights) towards a focus on utility (e.g. stopping criminal networks or fighting terrorism).[146] The shift towards combatting terrorism through CSDP missions is also expressed in EU action plans.[147] The link between the EU's military capabilities, unmanned systems and counter-terrorism is gradually becoming more pronounced in policy documents too. In 2016, the Commission adopted[148] several instruments[149] that aim to fight hybrid threats and terrorism in the EU's neighbourhood with military capabilities, noting:

> *"...the priority areas in which Europe needs to invest adequately and develop collaborative approaches, such as: Intelligence, Surveillance and Reconnaissance*

French soldiers of the aerial detachment of the Operation Barkhane stand guard near a Reaper drone about to take off from the Nigerian military airport Diori Hamani in Niamey on January 2, 2015. Operation Barkhane is an anti-Islamist operation in Africa's Sahel region beginning in July 2014 which consists of a 3,000-strong French force.

> *(ISR), Remotely Piloted Aircraft Systems [...] response to hybrid threats; as well as other capabilities, in particular those needed to ensure cyber and maritime security, and force protection."* [150]

Drones are considered to be a vital asset in order to operate in these vast areas, especially given the need to limit boots on the ground. After already carrying out targeted killings in Somalia, the US will also arm its drones in Niger, where the US is building a USD 100 million dollar drone base.[151] France is also already involved in counter-terrorism in the Sahel. It has carried out targeted killings with manned aircraft and has decided to arm its drones by 2020.[152] France has also proposed a European Intervention Initiative (EI2),[153] which aims to bring together a group of ten Member States that are willing and able to act militarily and to bypass slower EU mechanisms and consensus-seeking. The EI2's letter of intent specifically mentions tackling terrorist threats and the Sahel-Sahara region, as well as the Middle East.[154] Six of the ten EI2 members have already acquired MALE drones, while two of these have armed drones.[155] This raises questions about the influence which French leadership of the EI2 would have on other participating Member States, and how this might normalise certain practices amongst states with similar capabilities in the near future.

The EU's ambition to counter terrorism using military capabilities in the Sahel, as well as the fact that some Member States have already begun to do so, underscores the need for clear policies and discussion on their use. Apart from discussing the role unmanned systems could play in countering terrorism by providing ISR capabilities, both the European Commission and the European Council have steered clear of specifically mentioning the use of force through drones. This is problematic as EU officials have continually referred to the US as justification for the need to develop drones in the EU, while simultaneously ignoring the controversy surrounding the US's actual use of drones.

3.5 Parliamentary Oversight

Member States have sought to increase integration and cooperation on security and defence matters, but at the same time have been hesitant to cede ground to any supranational forms of governance. How will this affect parliamentary scrutiny, and what efforts has the European Parliament made to guarantee accountability and transparency?

3.5.1 CSDP

The CSDP is intergovernmental in nature, meaning that the treaties of the EU limit the role of the European Parliament. Though scrutiny of national parliaments on defence matters differs amongst Member States, the EP is broadly considered to be relatively weaker in terms of CSDP oversight.[156] The EP has a right to be consulted, to share its views and to make recommendations. In rare circumstances the EP can demand information, but its capacity to formally influence decisions taken by the Council remains limited.[157] Strengthening the EP's influence would be a move towards supranationalism in the area of security and defence, which Member States are keen to avoid. One solution is to improve inter-parliamentary coordination between national parliaments and the EP, which is currently considered to be too limited. [158] The fact that the EP is weaker than some of the Member States' national parliaments in terms of parliamentary oversight will become increasingly problematic. Due to the rapid progress of EU security and defence integration, more and more procedures and decisions are taking place within the European Commission and the European Council.[159] For example, the European Parliament has no role in the governance of PESCO, CDP, and CARD, even though these and other instruments now play an important role in directing capability development and defence expenditures. And though the EP was involved in the establishment of the EDF, its ability to scrutinise the projects it funds has been limited as well, as will be discussed below. The lack of scrutiny is concerning, as these instruments also have political outcomes: they influence what kind of actor the EU becomes.

3.5.2 TARGETED KILLINGS

The European Parliament has long been aware of the concerns regarding the use of armed drones, particularly their use for counter-terrorism operations. MEPs urged the EU to prohibit targeted killings in 2012.[160] In May 2013, a study[161] by the EP's Directorate-General for External Policies examined the use of unmanned systems in warfare with regard to international law and concluded that the uncertainty regarding legal standards and the perceived lack of transparency and accountability of current policies can lead to "polarizing of the international community, undermining the rule of law and, ultimately, of destabilizing the international security environment as a whole."[162] For these reasons, the policy department made the following recommendations:

- "The EU should make the promotion of **the rule of law in relation to the development,** proliferation and use of unmanned weapons systems a **declared priority** of European foreign policy."

- "In parallel, the EU should launch a broad inter-governmental policy dialogue aiming to achieve international consensus: (a) on the legal standards governing the use of currently operational unmanned weapon systems, and (b) on the **legal constraint** and/or ethical reservations which may apply with regard to the **future development,** proliferation and use of increasingly autonomous weapons systems."

- "Based on the resulting international consensus, the EU should work towards the **adoption of a binding international agreement**, or a non-binding code of conduct, aiming to restrict the development, proliferation or the use of certain unmanned weapon systems in line with the legal consensus achieved. "[163] (Emphasis added.)

A year later, in 2014, the EP followed up on this study and passed a resolution noting the loss of innocent civilian lives outside of conflict zones as a result of drone strikes, and "expressing grave concerns over the use of armed drones outside the international legal framework". In this resolution, the EP also called for an appropriate policy response and a common position on armed drones that[164] ensures the use of armed drones is in compliance with international human rights and humanitarian law, which the Council could adopt.

In 2016, the Council was asked by the EP[165] what steps it would take to follow up on the EP's 2014 resolution calling for a common position. The answer simply stated that the Council did not have a common position. A briefing with recommendations to the Council on such a common position was made in 2017.[166] Other resolutions and hearings[167] on armed drones were held as well.[168]

Several Parliamentary questions have been put to the European Commission and the European Council on the involvement of EU Member States, the development of armed drones, the need for export controls and the applicable legal frameworks[169] for drone strikes. The High Representative/ Vice-President was also asked what steps she had taken after the 2014 resolution discussed above. Answers to such questions typically[170] do not go beyond a reaffirmation that legal frameworks exist, that the use of armed drones should take place in accordance with international and European law, and that the EU discusses such issues with the United States, in "informal dialogue among EU and US legal advisers".[171] In terms of international discussion, the Commission notes that it is "not in a position to initiate global standards" but "participates in international fora to the extent that its status permits".[172]

3.5.3 SCRUTINY OF THE EUROPEAN DEFENCE FUND

Despite the lack of discussion with the Council, the notion that the development of armed unmanned systems raises questions appears to be widely recognised. As previously mentioned,[173] even the European Defence Agency itself noted that clarity is needed on the limits to developing such technology with regard to the political, ethical, and legal aspects.[174] The EP had the opportunity to establish such limits, as it was the co-legislator of the regulation establishing the European Defence Fund.[175] In 2018, members of the European Parliament did indeed try to address the issues of armed drones through their role in approving the new EDF. The Parliament's Committee on Foreign Affairs proposed the following amendment:

> *"Actions which contribute directly or indirectly to the **production of armed unmanned aerial vehicles** or their parts [...] and any relevant dual-use technologies shall be excluded so long as no Council Decision on the use of such new military technology exists which upholds international human rights law and international humanitarian law and which **addresses issues** such as a legal framework, proportionality, protection of civilians and transparency."*[176] *(Emphasis added.)*

Unfortunately, this amendment was defeated. The EP largely gave up[177] on parliamentary scrutiny during these debates and is now limited to evaluating the Fund.[178]

Despite this proposed amendment and all previous calls,[179] the Council and Commission have not taken any steps to address these issues. Security remains a competence of Member States, meaning all Member States would have to agree before the EU could take concrete steps. Unanimity is unlikely as some Member States resist an encroaching EU in this domain, while Member States such as the UK and France have considerable influence, have used armed drones and are already engaged in targeted killings. Engaging in a debate on these issues would not only draw attention to their own policies but also potentially open up the way to constraints on how they could use drones. Lastly, it could draw more attention to the US's drone programme and the ways in which European Member States facilitate this, possibly affecting the relations between the US and EU Member States.

3.6 How has EU Defence Developed?

There is truth to the Commission's quip that on EU defence, more has been achieved since 2015 than in the preceding 60 years. Higher ambitions have been met with developments, some of which, such as the European Defence Fund, were rapid and highly visible. Other changes, such as the MPCC and the gradual shift of CSDP missions from value-oriented to utility-based, drew less attention. But there are two significant directions worth highlighting: the move towards (counter-terrorism) operations in which unmanned systems can play a significant role, and the lack of the parliamentary oversight that ought to accompany the greater influence of the EU in security and defence matters.

New instruments related to security and defence will enable the EU to undertake CSDP operations more effectively and, in line with ambitions, increasingly in more advanced stages of conflicts. As Member States disagree on the financial and political risks that EU operations should carry, do not want to duplicate NATO's structures and are limited by the EU's fledgling capabilities, these operations are bound to have a light-footprint character. The need to avoid too many boots on the ground, combined with the aspiration to take action militarily in the EU's neighbourhood, explains the emphasis on developing (armed) unmanned systems.

The European Parliament's role in the CSDP is very limited. In cooperation with the EP, national parliaments can exercise oversight over the decisions taken by their respective governments, but that requires far-reaching cooperation, which is currently lacking.[180] This becomes more problematic as the EU's influence on security and defence matters increases.

4. Conclusions and Recommendations

This report set out to explain how the EU is evolving in the field of defence and what closer cooperation and the use of armed drones could mean for future EU security and defence policies. The development of armed drones is considered to be crucial not just as military capability and to ensure 'sovereignty', but also as a means of attaining convergence in EU Member States' defence spending and development. The role of the defence industry in setting this agenda and pushing this development, combined with the lack of transparency, is disconcerting. Equally troubling is the development of military technologies without a debate about what problem this technology is an answer to, how it might be used and, most importantly, what issues this use might create.

After considering these EU defence developments, the following conclusions and recommendations to the European Parliament, the European Commission, and the European Council, can be drawn:

1. Provide Transparency about the Defence Industry's Influence on the Research Agenda

The influence of defence industrial firms in EU decision-making procedures has been significant. Through 'advisory groups' made up of defence industry CEOs, EU funding has been increasingly directed towards the research and development of unmanned systems undertaken by those same firms.

The decision-making processes behind military and defence research should be fully transparent and receive input from a diverse range of actors. Non-governmental organisations, lawyers and academia should all be part of the discussion to identify the possible implications for international security and human rights. Future proposals should be transparent as well.

2. Engage in Discussions on the Development and Use of Military Drones

The EU has supported, and is now directly funding, the development of armed drones. Discussions about the utility of these drones have avoided their most controversial aspect, their use in drone strikes, and instead focus on their use for ISR purposes. As a result, no public assessment of the ethical, legal and strategic impact of using armed drones has been made.

Developing armed drones without addressing the potential issues and the risks that come with their use is putting the cart before the horse. A careful examination of how armed drone capability will relate to future operations, and how it can and cannot be used to secure stability and safety, is essential. International common standards on transparency, accountability and oversight are necessary. To this end, the EU should not only encourage this debate among its Member States, but also engage in international fora such as the United Nations.

3.Increase Parliamentary Oversight

The EU's new instruments and capabilities are enabling greater influence in the area of security and defence. However, the European Parliament's role, which is already severely limited with regard to the CSDP, has not grown in step with this. As the EU militarises, effective parliamentary oversight becomes increasingly necessary. If the EP is not to have a stronger role, the way in which national parliaments work together with the EP to exercise oversight will need to be improved to guarantee democratic accountability for EU missions in the future.

4. Adopt a Common Position on the Use of Armed Drones

The European Parliament has frequently expressed its concerns about the issues raised by armed drones and the assistance some European Member States provide to US drone strikes that have violated international law. The EP has also called on the Council to condemn targeted killings and to clarify its position on the use of armed drones. But the Council and Member States have remained silent. Without clear positions on the use of armed drones, Member States risk supporting a dangerous precedent set by other countries that have used armed drones in ways that undermine international law.

The EU needs to decide whether it will follow US policy or whether it will safeguard international norms on the use of force. EU policies aimed at developing military drones should be accompanied by clear policies that address these issues and articulate how these capabilities will be used. Recommendations for a common position on the use of armed drones have already been made by the EP's Subcommittee on Human Rights; it is only a matter of tabling it in the Council.

5.Commit to Strong Controls on the Export of Armed Drones

One of the major driving forces behind the EU's development of drones is the desire to develop and maintain a defence technological and industrial base. Exporting defence products is considered to be crucial for developing such a base. This raises questions about whether countries such as France, which already exports weapons to countries such as the United Arab Emirates and Saudi Arabia, will try to ensure that armed drones are used in compliance with international law.

Strong export controls on armed drones will be needed. Several arms control regimes apply to drones, such as the Arms Trade Treaty to which European Member States are party, and a multilateral effort to set up standards on the use and export of armed drones is underway. [181] States should ensure that these controls are clear, act in accordance with them, and ensure that new standards do not weaken mechanisms already in place.[182]

As ambitions for security and defence increase, the corresponding defence investments are made and security cooperation deepens, the European Member States and institutions should keep in mind that the EU's normative 'soft' power is just as important. Especially regarding the use of armed drones, the EU should avoid following the precedent set by other countries and make sure that armed drones will only be used in ways that fully respect human rights and international law.

End Notes

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133 Article 41(2) of the Treaty on European Union.

134 Euractiv, 2018, 'New EU "Peace Fund" Could Buy Weapons For Africa'. Accessed at: https://www.euractiv.com/section/defence-and-security/news/new-eu-peace-fund-could-buy-weapons-for-africa/

135 Oxford Research Group, 2017, 'Defining Remote Warfare: Engaging in Security Cooperation'. Accessed at: https://www.oxfordresearchgroup.org.uk/defining-remote-warfare-security-cooperation

136 Clingendael, 2017, 'Making Sense of European Defence'. Accessed at; https://www.clingendael.org/sites/default/files/2017-12/Making_Sense_of_European_Defence.pdf

137 Council of the European Union, 2019, 'PESCO Overview of First Collaborative Projects'. Accessed at: https://www.consilium.europa.eu/media/32079/pesco-overview-of-first-collaborative-of-projects-for-press.pdf

138 The Guardian, 2018, 'Merkel Joins Macrons in Calling for a "Real, True European Army"'. Accessed at: https://www.theguardian.com/world/2018/nov/13/merkel-joins-macron-in-calling-for-a-real-true-european-army

139 European Commission, 2017, 'Defence: European Commission Welcomes Steps Towards Permanent Structured Cooperation'. Accessed at: http://europa.eu/rapid/press-release_STATEMENT-17-4608_en.htm

140 For example, the Commission has proposed moving towards qualified majority voting (QMV) for civilian missions. See: European Commission, 2018, 'Qualified Majority Voting: a Tool to Make Europe's Foreign and Security Policy More Effective'. Accessed at: https://ec.europa.eu/commission/sites/beta-political/files/soteu2018-factsheet-qmv_en.pdf. The European Intervention Initiative (EI2) was also launched to enable willing Member States to act while cutting down on decision-making time. The EI2 is also meant to collaborate closely with PESCO, where decisions are taken by QMV as well. See: The Guardian, 2018, 'Nine EU States Sign off on Joint Military Intervention Force'. Accessed at: https://www.theguardian.com/world/2018/jun/25/nine-eu-states-to-sign-off-on-joint-military-intervention-force These developments would make joint action and further integration possible despite the opposition of other EU Member States.

141 With regard to Eastern Europe and the Middle East, the EU's counter-terrorism approach is less direct, and will focus "on Turkey, the Western Balkans, Lebanon, Tunisia, Egypt and Jordan through dedicated capacity building support efforts and upgraded dialogue".

142 Vrije Universiteit van Amsterdam, 2016, 'The Character of EU-Military Operations: Justification and Policy-Embeddedness'. Accessed at: https://research.vu.nl/ws/portalfiles/portal/41931426/chapter+4.pdf . In the other two training missions in Mali and Somalia, combat involvement has been explicitly exclude

143 ISS, 2015, 'EFOR RCA: Tough Start, Smooth End'. Accessed at: https://www.iss.europa.eu/sites/default/files/EUISSFiles/Alert_17_EUFOR_RCA.pdf

144 European Parliament, 2015, 'Council Decision CSFP 2015/778'. Accessed at: http://www.europarl.europa.eu/meetdocs/2014_2019/documents/libe/dv/4_council_decision_2015_778_/4_council_decision_2015_778_en.pdf

145 For the use of force, the EU currently relies on the military forces of a group of Sahel countries called the G5, which it funds to make sure they are adequately manned and equipped. The G5 consists of Mauritania, Mali, Niger, Chad and Burkina Faso. Its military forces compromises about 5,000 troops from these Sahel countries, which are mandated to combat terrorism.

146 Vrije Universiteit Amsterdam, 2016, 'The Character of EU-Military Operations: Justification and Policy-Embeddedness'. Accessed at: https://research.vu.nl/ws/portafiles/portal/41931426/chapter+4.pdf

147 Following independent operations by French forces in the Sahel in 2013 and 2014, a new Sahel Regional Action Plan was adopted for the period 2015-2020. The new Action Plan noted that in the "same fight against terrorism" as the French are undertaking, the CSDP missions will pursue short- to medium-term objectives. See: European External Action Service, 2019, 'Sahel Region – Regional Action Plan'. Accessed at: https://eeas.europa.eu/headquarters/headquarters-homepage_en/4094/Sahel%20region#Sahel+Regional+Action+Plan

148 In 2016, the Commission adopted a Joint Framework for countering hybrid threats, meaning threats that can be both military and non-military, and carried out by both state and non-state actors. The framework aims to bring together "all relevant actors, policies and instruments" to counter hybrid threats, many of which "originate from instability in the EU's immediate neighbourhood". See: EUR-Lex, 2016, 'Joint Framework on Countering Hybrid Threats'. Accessed at: https://eur-lex.europa.eu/

legal-content/en/TXT/?uri=CELEX%3A52016JC0018

149 The EU also adopted a new doctrine in June 2016, titled the European Union Global Strategy (EUGS), which focuses just as much "on military capabilities and anti-terrorism as on job opportunities, inclusive societies and human rights". The first priority of EUGS is building a more "credible European defence" and includes "fighting terrorism and hybrid threats". See: Council of the European Union, 2016, 'Council Conclusions on Implementing the EU Global Strategy in the Area of Security and Defence'. Accessed at: https://www.consilium.europa.eu/media/22459/eugs-conclusions-st14149en16.pdf

150 Ibid

151 The Intercept, 2018, 'The U.S. Is Building a Drone Base in Niger That Will Cost More Than $280 Million by 2024'. Accessed at: https://theintercept.com/2018/08/21/us-drone-base-niger-africa/

152 Reuters, 2017, 'France Turns to Armed Drones in Fight Against Sahel Militants'. Accessed at: https://www.reuters.com/article/us-france-drones/france-turns-to-armed-drones-in-fight-against-sahel-militants-idUSKCN1BG2K2

153 EI2 is a proposed structure outside of NATO and existing EU defence structures, which aims to create a common strategic culture and increase the effectiveness of European states as a defence actor. See: Bundesministerium der Verteidigung, 2018, 'Letter of Intent Concerning the Development of the European Intervention Initiative (EI2)'. Accessed at: https://www.bmvg.de/resource/blob/25706/099f1956962441156817d7f35d08bc50/20180625-letter-of-intent-zu-der-europaeischen-interventionsinitiative-data.pdf

154 Bundesministerium der Verteidigung, 2018, 'Letter of Intent Concerning the Development of the European Intervention Initiative (EI2)'. Accessed at: https://www.bmvg.de/resource/blob/25706/099f1956962441156817d7f35d08bc50/20180625-letter-of-intent-zu-der-europaeischen-interventionsinitiative-data.pdf

155 EI2 members possessing, or in the process of acquiring, MALE drones are Belgium, the Netherlands, Spain, Germany, the UK and France. The UK and France have already armed their MALE drones.

156 European Parliament, 2019, 'The Scrutiny of the European Defence Fund by the European Parliament and National Parliaments'. Accessed at: http://www.europarl.europa.eu/RegData/etudes/STUD/2019/603478/EXPO_STU(2019)603478_EN.pdf

157 Ibid.

158 Kenneth McDonagh, 2016, 'CSDP Missions and the Security and Defence Committee of the European Parliament', Irish Studies in International Affairs, 27, 223.doi:10.3318/isia.2016.27.17

159 EUISS, 2019, 'The Scrutiny of the European Defence Fund by the European and National Parliaments'. Accessed at: https://www.iss.europa.eu/sites/default/files/EUISSFiles/EXPO_STU%282019%29603478_EN1.pdf160 European Parliament, 2012, 'Written Declaration Pursuant to Rule 123 of the Rules of Procedure on the Use of Drones for Targeted Killings'. Accessed at: https://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML%2BWDECL%2BP7-DCL-2012-0002%2B0%2BDOC%2BPDF%2BV0//EN

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162 Ibid.

163 Ibid.

164 European Parliament, 2014, 'Joint Motion for a Resolution'. Accessed at: https://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+MOTION+P7-RC-2014-0201+0+DOC+PDF+V0//EN

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166 European Parliament, 2017, 'Towards an EU Common Position on the Use of Armed Drones'. Accessed at: https://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU(2017)578032

167 European Parliament, 2012, 'The Use of Drones and the Fight Against Terrorism - the Impact on Human Rights'. Accessed at: http://www.europarl.europa.eu/committees/en/events-hearings.html?id=20160623CHE00021

168 European Parliament, 2013, 'MEPs Call for a Global Debate on the Use of Drones'. Accessed at: https://www.europarl.europa.eu/news/en/headlines/world/20130426STO07642/meps-call-for-a-global-debate-on-the-use-of-drones

169 European Parliament, 2014, 'Legal Framework for the Use of Armed Drones'. Accessed at: http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+OQ+O-2014-000031+0+DOC+XML+V0//EN

170 European Parliament, 2015, 'Answer Given by Vice-President Mogherini on Behalf of the Commission'. Accessed at: https://

www.europarl.europa.eu/doceo/document/P-8-2015-013461-ASW_EN.html

171 European Parliament, 2014, 'Answer given by High Representative/Vice-President Ashton on behalf of the Commission'. Accessed at: https://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2013-012201&language=EN

172 Ibid.

173 See subchapter 2.5, regarding the quote of the EDA's Chief Executive Officer.

174 European Defence matters, 2018, 'Remote Defence'. Accessed at: https://www.eda.europa.eu/docs/default-source/eda-magazine/edm-16-a3.pdf

175 European Parliament, 2019, 'The Scrutiny of the European Defence Fund by the European Parliament and National Parliaments'. Accessed at: http://www.europarl.europa.eu/RegData/etudes/STUD/2019/603478/EXPO_STU(2019)603478_EN.pdf

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181 https://2009-2017.state.gov/r/pa/prs/ps/2016/10/262811.htm

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