
NEWS FROM THE BRUSSELS' BUBBLE

#2020-3, 27 October 2020

Main news items:

- ✓ EP Reports on Artificial intelligence: a schizophrenic position?
- ✓ EP draft Report on the 2009 Procurement and Transfer Directives
- ✓ EU support to the arms industry: EU Defence Fund and other forms of support

In short:

- ✓ German BAFA continues EUP2P project on promotion of arms exports controls with EU funding
- ✓ Interesting links (incl. 22nd EU report on arms export control)

2020 EU Calendar: main meetings to come

- 19 November** EU Foreign Affairs Council
- 20 November** EU Foreign Affairs Council (Defence)
- 3-4 December** EDA Annual conference through videoconference sessions
- 7 December** EU Foreign Affairs Council
- 10-11 December** European Council
- 1st January 2021** Portugal takes EU Presidency

[Access the previous Newsletters here](#)

EP Reports on artificial Intelligence: a schizophrenic position?

The European parliament is currently quite active on artificial intelligence with several texts going in parallel, including on the military dimension although this represents a small part of the work. Making an exhaustive presentation of all this work is far beyond

this newsletter and mandate of the ENAAAT EU programme, so this article will only present the main points of relevance and on-going procedures, in particular the recently adopted Report.

➤ EP report on AI ethical framework encourages military development but for a limited use?

On Tuesday 20 October, the EP Plenary adopted a Report on *A framework of ethical aspects of artificial intelligence, robotics and related technologies*.

Led by Spanish S&D Iban Garcia del Blanco, the final text has been voted in Plenary last Tuesday 20 October, and includes elements about the use of AI in the military context.

The EP position on military uses of AI is a thin -and somehow schizophrenic, line encouraging on the one side the development of military AI, and on the other claiming that its use should be limited and that human control is vital.

The summary below of this 61 pages-long Report is mainly based on a [B2pro article](#)

The Report was adopted by a large majority, with 559 votes 'for', 44 'against' and 88 abstentions. It proposes not only recommendations, but also a proposal for a regulation. The European Commission is due to make a legislative proposal on this subject early next year.

Human control is vital

The human element should remain at the heart of the system. It considers it "essential" that "all responsibility for the decision to design, develop, deploy and use 'artificial intelligence' must rest with

human operators”. This human control should also be maintained for “command and control”. In particular the decision to use force must be “subject to meaningful human monitoring and control” over weapon systems. The execution of “any decision” of weapon systems “likely to have fatal consequences” must be based on “human intent”. Judgment “cannot be left to machines, as it must be based on the principles of distinction, proportionality and precaution”.

The Report also insists on the necessity to have “clear and identifiable frameworks” for accountability for the deployment of smart weapons and other artificial intelligence systems, “based on the unique characteristics of the user (biometric data) ensuring that only authorised personnel authorise the deployment of these weapons”.

It also raises the idea of a posteriori control, via “a black box to record each data transfer operation carried out by the machine”.

In order to avoid spillovers, AI systems “must have a concrete and well-defined mission framework”, based on human control that has “the ability to detect and disassociate or deactivate deployed systems if they exceed the mission scope defined and assigned by a human commander or if they take unintended or escalating action”.

An opportunity for innovation, competitiveness and autonomy

Alongside this ‘nice’ list of wishful thinking, the Report calls for member states and the EU to “invest more” in European AI both in the defence sectors and in the critical infrastructure on which it is based. It considers that AI can contribute to ‘a modern and efficient army’.

Used in defence activities, it is “a cross-cutting breakthrough technology whose development can offer opportunities for competitiveness and strategic autonomy for the Union”. Developing a AI “of trust” in the defence field is therefore a must. Moreover, it is

➤ **EP draft Report on interpretation and application of international law in the areas of civil and military uses**

This non-binding report is led by a French far-right (I&D) MEP, Gilles Lebreton. The draft text is still under discussion at committee level.

This much shorter paper (8 pages so far) gives the

“on the way to becoming one of the fundamental elements in the fight against emerging security threats”, such as cyber and hybrid warfare, and offers ‘advantages’ (better data, accurate situational awareness, rapid decision-making, protection of deployed forces).

Recalling that “most states with armies have already made considerable efforts in R&D (research and development) on the military dimension of artificial intelligence”, the EU “must ensure that it does not fall behind in this area”. Even so, it must “play a leading role” in the fields of security and defence.

Another topic on which Europeans should further work is quantum computing. It could become “the most revolutionary weapon since the advent of the atomic weapon” and should be a priority area of work.

On lethal autonomous weapons (LAWS)

MEPs “deplore the lack of agreement on a legally binding instrument with an effective control mechanism” and call on the Member States “to develop national strategies for [their] definition and status towards a comprehensive strategy at Union level”. It also refers to the EP resolution on autonomous weapon systems of 12 September 2018 and “calls once again for the urgent development and adoption of a common position on lethal autonomous weapon systems, for an international ban on the development, production and use of lethal autonomous weapon systems enabling strikes to be carried out without meaningful human control and without respect for the human-in-the-loop principle”. It also reminds and welcomes the agreement “to exclude lethal autonomous weapons ‘without the possibility for meaningful human control over the selection and engagement decisions when carrying out strikes’ from actions funded under the **European Defence Fund**”.

The AFET Committee had drafted an Opinion for this report, led by the Estonian Liberal (Renew) Urmas Paet.

same strange feeling of not fitting to the reality of increasingly complex and fast systems, listing nice principles while encouraging further development. It also insists that “all military uses of AI must be

subject to human control, so that, in particular, a human has the opportunity to correct or halt them at any time, and to disable them in the event of unforeseen behaviour” and that “their decision-making process must be traceable”. And of course they should always respect International Law. This was the minimum to be expected... A good number of articles relates to lethal autonomous weapons: systems without any human control should be banned, LAWS should be used in clearly defined cases and within public authorisation procedures, and included in art.2 of the ATT. Their "anthropomorphisation" should be prohibited.

To note also references to the EU funding for military R&D, recalling that “the purpose of the European Defence Fund (EDF) is to finance military research projects conducive to innovation, especially those implementing AI, even when they concern LAWS” and suggesting “that the EDF remind the companies whose projects it finances and the States concerned that its funding does not absolve them of the responsibility to pay scrupulous attention to ensuring that any future military uses of the AI involved in these projects comply with the principles set out in paragraphs 2 to 13 of this report”. This also sounds like a wishful thinking knowing that ethical checks about compliance with International are already very weak...

AFET also adopted an Opinion for this report on 7 July, led again by Urmas Paet, and which falls into the same

➤ **EP special committee on Artificial Intelligence in the Digital Age (AIDA)**

The Parliament has set-up a special committee on Artificial Intelligence in the Digital Age (AIDA), “to analyse the future impact of artificial intelligence in the digital age on the EU economy, in particular on skills, employment, fintech, education, health, transport, tourism, agriculture, environment, defence, industry, energy and e-government”.

AIDA held its first meeting on 23 September, and the next meetings are 26/10 (exchange of views with

[Links to relevant documents](#)

EP [Resolution with recommendations to the Commission on a framework of ethical aspects of artificial intelligence, robotics and related technologies](#), 20 October 2020, in all EU languages. Paragraphs 88 to 102 on security and defence

AFET [Opinion to JURI Report on framework of ethical aspects](#), 24 June 2020

JURI draft [Report on artificial intelligence: questions of interpretation and application of international law in so far as the EU is affected in the areas of civil and military uses and of state authority outside the scope of criminal justice](#) (dated 14/07)

AFET [Opinion to Juri report on International law interpretation](#), 7 July 2020

AIDA Committee [webpage](#) , [mandate](#) and [key MEPs](#)

shortcomings.

Many of the points of this 4 pages-text are reflected one way or another in the first Report adopted last week, or in the draft still under way.

On exports it specifically “calls on the VP/HR to pave the way for global negotiations with a view to putting in place an AI arms control regime and updating all existing treaty instruments dedicated to arms control, disarmament and non-proliferation so as to take AI-enabled systems used in warfare into account; calls for the Council Common Position defining common rules governing control of exports of military technology and equipment to fully take into account and cover AI-enabled weapons systems”.

It also includes a number of recommendations as regards the design, development, testing, evaluation, certification, monitoring, verification and deployment of AI-enabled systems in order to ensure that they will be at all times used in compliance with IL and prevent any potential risks like “incidental civilian casualties and injury, accidental loss of life, and damage to civilian infrastructure”, proliferation, unintended engagement, misappropriation, “escalatory destabilising effects”, etc.

It also insists on the principles of distinction between combatants/non-combatants, civilian/military and of non-discrimination.

Commissioner Thierry Breton), 27/10 (exchange of views with EC VP Margrethe Vestager and an OECD representative) and 28/10 (Hearing on Women and digitalisation). The Committee will be one-year long and will produce a Report with recommendations and a roadmap “on ‘A Europe fit for the digital age’, which shall provide the EU with a strategic plan defining its common objectives in the medium- and long-term and the major steps needed to reach them”.

EU Parliament report on the 2009 Procurement and Transfer directives

➤ Draft AFET Opinion calls for prior authorisation for re-exporting products and components

The European parliament is drafting a report 'on the implementation of Directive 2009/81/EC, concerning procurement in the fields of defence and security, and of Directive 2009/43/EC, concerning the transfer of defence-related products'.

The lead committee is IMCO (Internal market and Consumers protection), and the Rapporteur the Belgian liberal Kris Peeters (EPP).

The AFET committee has been asked for an Opinion to this Report, which in practice is drafted by its SEDE subcommittee. In SEDE the Rapporteur for Opinion is Sven Mikser (Estonia) who is also the coordinator of the S&D group on security and defence matters.

The draft Report and Opinion are public, and will be discussed this week, with amendments to be tabled next week (see calendar of adoption below and links to drafts). In a nutshell what do those drafts say that could be of interest to us?

It is no surprise that both drafts pledge for a 'better implementation' of the Directives, not for a revision. In the Peeters' draft, the perspective is mainly an 'internal market' one, calling for more transparent and open markets in order to "smooth the circulation of defence-related products within the internal market and have an efficient internal market, greater security of supply and improved competitiveness" of the European arms industry.

The Rapporteur calls for a much larger use of General Transfer Licences over Individual Transfer Licences. He

also focuses on the need for an open European defence equipment market (EDEM) and a stronger participation of Small and Medium Enterprises (SMEs). He sees PESCO and the EU Defence Fund as important tools towards this EDEM.

The 4-pages draft AFET Opinion is slightly more moderate: it pledges of course for a more open and transparent market, and he also calls Member States to make use of the EDIDP and Defence Fund "to foster cooperative procurement".

However it 'only' "deplores the limited use of General transfer Licences", after a much longer art.8 about the EU Common Position, where he "underlines that a more coherent interpretation and consistent implementation of the EU Common Position on Arms Exports is needed in order to limit fragmentation of the EU's internal defence market and ensure the EU's credibility as a global actor; calls for action to address any loopholes which may exist among the ICT directive, the Common Position and the Dual-Use Regulation; underlines the necessity for prior authorisation before re-exporting products and components, given the discrepancies in the implementation of the Common Position";

One can read here the contribution of more critical MEPs like Hannah Neumann.

Yet it remains to be seen first if this provision will stay in the final AFET Opinion. And if it does, will it be then taken into consideration by Kris Peeters, who does not mention once the Common Position in his draft?

➤ Calendar of adoption of the AFET Opinion and IMCO Report

For the AFET/SEDE Opinion:

- discussion on draft Opinion on Wed 28/10 pm
- deadline for tabling amendments is 05/11
- vote in AFET Committee: date tbc

For the IMCO Report:

- draft Report discussed on Mon 26/10 ([listen here](#)), with presentation of [EP study on EU Defence package](#)
- deadline for tabling amendments is 11/11

- discussions of amendments planned 2-3/12/2020
- discussion on compromise amendments planned in January 2021
- vote in IMCO planned in February 2021
- vote in Plenary not tabled yet

Links to the draft texts:

- [Draft IMCO report dated 07/10](#)
- [Draft AFET Opinion dated 29/09](#)

EU support to the arms industry: EU Defence Fund and other forms of support

In June the European Commission published the list of projects selected for funding under the Preparatory Action (PADR) in 2017-2019 and the Development programme (EDIDP) in 2019, to the exception of 3

➤ EDF largely profits to main EU arms exporters and GoP members

As regards countries, these are the big 4: France, Italy, Spain and Germany, also the 4 main EU exporters of weapons: they get 53.5 % of the total number of grants, while 37% of EU countries get few or no grants at all. 25% of EU countries get 70% of the number of grants (the big 4 + Greece, Belgium and Portugal).

As regards companies, among the top 10 of those getting the highest number of grants, 7 were members of the Group of Personalities that advised the European Commission to create this funding in 2016: Leonardo with 12 grants, Indra with 9 grants, TNO with 7 grants, MBDA and SAAB with 6 grants and the Fraunhofer Institute with 5 grants. However the winner is Thales with 15 grants. The 2 other companies of the top 10 are SAFRAN and Diehl Defence with 6 and 5 grants respectively.

The information publicly available does not provide the detailed breakdown of a project grant per

PADR projects for which no information was provided. Who are those profiting the most from these 32 projects?

beneficiary, thus we can only compare numbers of grants and not the actual amounts received by the beneficiaries and countries, although this would be more significant.

While PADR projects are 100% funded with EU money, the average EU funding rate for EDIDP projects is 86%: half of the 16 projects selected get 90 to 100% EU funding and only 2 projects get less than 75% of their total costs from EU public money (of which only 1 gets less than 50%, and might be co-funded under the EU space programme). This is quite far from the expected 1 to 4 multiplier effect, and the alleged incentive effect of the Defence Fund for cooperative national investments is yet to be seen.

To note also that the PESCO projects are largely funded under the EDIDP: 9 out of the 16 selected projects are on-going projects under PESCO. They get 80% of the budget with an average EU funding of 68%.

➤ What about the type of technologies being researched, and their ethical control?

2 categories of projects get a large share of the budget allocated so far: 1) Intelligence-surveillance-reconnaissance (ISR), secured communications & cybersecurity, and 2) building the next generation of combat capabilities.

For that purpose, three main areas of 'technological progress' are at the core of the projects selected, and often intertwined:

-> Unmanned systems, like the Eurodrone (to be 'armable' by those who will buy it) but also Unmanned Ground Systems (UGVs, e.g. unmanned tanks)

-> Artificial Intelligence for increasingly autonomous and/or complex systems; like developing clusters of drones ('swarms') or a long-distance missile with autonomous target designation capability

-> other disruptive technologies that will radically change the way to conduct war, like an electromagnetic railgun (EMRG) to launch projectiles over extremely long distance, or directed energy

weapon systems (DEWs, like lasers).

All these technologies entail serious risks ranging from extrajudicial killings to civilian casualties and human rights abuses, resurgence of large-scale attacks, lack of proper human control over increasingly complex and fast systems, and challenged legal responsibility, to name but a few.

In parallel the ethical checks conducted by the EU when selecting projects fall short of being credible and violate International Law (in particular the Geneva conventions), when they exist...

Not to say about the lack of a proper parliamentary oversight that we have regularly exposed.

Adding to this the weak and inconsistent implementation of the EU Common position on arms exports control, it looks very likely that EU-funded weaponry will feed the global arms race and sooner or later end in conflict zones.

For more details about the implementation of the Fund so far, see the recent [ENAAT publication](#)

➤ **€8bn Defence Fund for 2021-2027 is pending negotiations on the EU long-term budget**

On 1st October, Member States representatives formally adopted their position on the EU Defence Fund for 2021-2027. This was mainly a procedural thing, clarifying in particular the agreed budget in current figures: the Fund should amount to €7.95 billion in current figures (to be compared with the €13bn of the initial EC proposal in 2018, making a decrease of 38.8%). €5.3bn would go to the 'development window' (follow-up of the current EDIDP) and €2.65bn would go to the 'research window' (follow-up of current PADR).

As for the European parliament, a majority decided not to re-open the 'Pandora box' including on pending issues like the participation of third countries or the budget:

the main political groups – EPP, Renew and S&D, agreed not to re-open discussions on the Fund and

accept the compromise as it stands (e.g. Member States position of 01/10), while the GUE and the Greens disagreed.

However this does not mean that the Defence Fund will start on January 1st. This will depend whether an agreement will be reached on the EU long-term budget for 2021-2027 (MFF). Negotiations have been suspended mid-October, after Member States rejected all the EP demands about the recovery plan, the rule-of-law conditionality and a budget increase for a number of programmes (Erasmus, health, research, migration, humanitarian aid, border security)

If no agreement on the MFF can be reached before 31 December, the 2021 EU budget could only replicate the 2020 budget, meaning that 'only' €250 million could be dedicated to military development projects.

➤ **Other sectorial support for the arms industry: European skills Agenda and Horizon Europe**

We have already exposed the trend to integrate the military industry as a 'normal' business in many civilian EU programmes, and in some cases make it a priority. There are 2 new examples of this phenomenon.

Under the EU Skills agenda, a new Pact for skills has been presented on July 1st, aiming to provide *"more and better opportunities for people to train, and to unlock public and private investments across industrial and skills ecosystems"*. In this framework Commissioners Schmit (Jobs and Social rights) and Breton (Internal market and Defence industry) chaired on 16 October a high-level round-table with the Aerospace and arms industry, in Brussels.

"The Aerospace and Defence sector has been identified as an important industrial ecosystem to partner up with under the Pact due to the severe consequences of the pandemic, the strong engagement from the industrial players as well as its progress under the current Blueprint of Sectoral Cooperation on Skills initiative. Upskilling (improving existing skills) and reskilling (training in new skills) are important drivers for the recovery from the pandemic and for the long-term restructuring of the sector."

This includes financial support under the current Blueprint of Sectoral Cooperation on Skills initiative.

The second example relates to the main EU research programme, Horizon Europe (worth dozens of billion

Euros). Although negotiations are still ongoing, a wider opening to the military sector is already visible: defence or security research is not excluded a priori from the provisions of the new Horizon Europe regulation. Only activities *"exclusively focused on defence research and development"* and *"aimed at fostering the competitiveness, efficiency and innovative capacity of the European industrial, technological and defence base"* are excluded. Two 'clusters' in particular contain themes closely related to security and even defence:

The first, 'Civil Security for Society', with a budget of €1.253 billion for the period 2021-2027, aims to *"address the challenges arising from persistent security threats"*, in particular *"cybercrime [more generally, cybersecurity], natural and man-made disasters"*.

The second, 'Digital, Industry and Space', with a budget of €13.429 billion over the period, aims to strengthen *"Europe's capabilities and guarantee its sovereignty in key technologies"*, space, digital and security of supply. It covers in particular: key digital technologies, including quantum standards, emerging technologies; rare materials, artificial intelligence and robotics, next-generation internet, space, including Earth observation, etc.

Thus the draft Regulation now provides for two exceptions to the usual fairly broad admission of entities, aligning to a certain extent with the EU Defence Fund about restrictions to the participation of companies based in or controlled by non-EU countries.

(main source: [B2pro article](#))

The EDA has also set-up a [B2B Platform](#) for cross-border partnerships, “to respond to the increased need for networking due to the new initiatives at EU level with benefit to European defence-related Industry.”

Links to relevant documents

[EU Member States revised mandate on EDF draft Regulation](#), 1st October

EC webpage on [2019 EDIDP and PADR projects](#) ; EDA webpage on [2017-2018 PADR projects](#)

[Press release about Schmit/Breton round-table with arms industry](#) (16.10.2020)

Horizon Europe Draft regulation, [Council position \(General approach\) of 29 September 2020](#)

Short News

➤ German BAFA continues EUP2P project on promotion of arms exports controls

[Council Decision \(CFSP\) 2020/1464 of 12 October 2020 on the promotion of effective arms export controls](#) in all EU languages

The European Union has decided to allocate €1.377 million over two years to a project run by the German Federal Office of Economics and Export Control (BAFA). Known as EUP2P, this project (partly co-funded by the German government) aims to help third countries to “develop and implement legislative and administrative measures to establish an effective system of conventional arms export controls”. It is the fifth time that BAFA receives European support.

➤ Interesting links

[EU nations call for 'soft law solutions' in future Artificial Intelligence regulation](#), Euractiv, 8 October

[Defence Union: further progress made towards military mobility in the EU](#) , EEAS press release, 19 October

[EU 22nd Report on arms export control](#), adopted on 23 October, and its annexes per [destination](#), [per region](#) and [worldwide](#).

The EEAS also created an [online database](#) including all figures since 2013. Note that the [ENAAT data browser](#) provides EU official figures since 1998.

*

*

*