European Parliament

2019-2024

Committee on Foreign Affairs

2020/2013(INI)

7.7.2020

OPINION

of the Committee on Foreign Affairs

for the Committee on Legal Affairs

on artificial intelligence: questions of interpretation and application of international law insofar as the EU is affected in the areas of civil and military uses and of state authority outside the scope of criminal justice (2020/2013(INI))

Rapporteur for opinion (*): Urmas Paet

(*) Associated committee – Rule 57 of the Rules of Procedure

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SUGGESTIONS

The Committee on Foreign Affairs calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Highlights that the security and defence policies of the European Union and its Member States are guided by the principles enshrined in the European Charter of Fundamental Rights and the UN Charter – the latter of which calls upon all states to refrain from the threat or use of force in their relations with each other – as well as by international law, by the principles of human rights and respect for human dignity and by a common understanding of the universal values of the inviolable and inalienable rights of the human person, of freedom, of democracy, of equality and of the rule of law; highlights that all defence-related efforts within the Union framework must respect these universal values while promoting peace, stability, security and progress in Europe and in the world;

2. Calls on the UN and the wider international community to undertake all necessary regulatory efforts to ensure that the development and application of artificial intelligence (AI) for military uses and to increase law enforcement civil capacities, such as those of police and border control forces, as well as the study, development and use of AI-enabled systems by the military, stay within the strict limits set by international law, including international humanitarian law (IHL) and human rights law; stresses that the EU should pursue the international adoption of its technical and ethical standards for AI-enabled military systems, and, in close cooperation with like-minded partners, strive for an international regulatory framework outlining common norms based on democratic values, adequately framed so as to prevent their use for espionage, mass, targeted and political surveillance, disinformation and data manipulation, and a cyber arms race; calls for increased cooperation with NATO in order to establish common standards and improve the interoperability of AI-enabled systems; calls on the Commission to foster dialogue, closer cooperation and synergies between Member States, researchers, academics, civil society actors and the private sector, in particular leading companies, and the military, to ensure that policymaking processes for defence-related AI regulations are inclusive;

3. Considers in particular that the design and development for and use of AI-enabled systems in armed conflicts must, as provided for in the Martens Clause, abide by the general principles of IHL and never breach or be permitted to breach the dictates of the public conscience and humanity; considers that compliance with IHL is the minimum admissibility standard for the use of AI-enabled systems in warfare; calls on the AI research community to integrate this principle in all AI-enabled systems intended to be used in warfare; considers that no authority can issue a derogation from those principles or certify an AI-enabled system that breaches them; therefore invites developers of lethal autonomous weapons systems (LAWS) to halt all design, prototyping and production of such systems;

4. Welcomes the creation of a UN Group of Governmental Experts (GGE) on advancing responsible State behaviour in cyber space in the context of international security and calls on the EU to fully participate in its work;

5.   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;

6.   Stresses that states, parties to a conflict and individuals, when employing AI-enabled systems in warfare, must at all times adhere to their obligations and liability under the applicable international law and must remain accountable for actions resulting from the use of such systems; recalls that humans remain accountable for intended, unintended or undesirable effects caused by AI-enabled systems on the battlefield; emphasises that the decision to take lethal action by means of weapons systems with a high degree of autonomy must always be made by human operators exercising meaningful control and oversight and the necessary level of judgment in line with the principles of proportionality and necessity; stresses that AI-enabled systems can under no circumstances be allowed to replace human decision-making;

7.   Highlights the need to take duly into account, during the design, development, testing and deployment phases of an AI-enabled system, potential risks with particular regard to incidental civilian casualties and injury, accidental loss of life, and damage to civilian infrastructure, but also risks related to unintended engagement, manipulation, proliferation, cyber-attacks or interference and acquisition by organised crime and terrorist groups, leading to escalatory destabilising effects that aim to make our societies, militaries and institutions vulnerable;

8.   Is concerned by the fact that not all members of the international community would follow a regulatory human-centric AI approach; urges the EU and the Member States to assess the development of AI technologies, particularly those used for military and surveillance purposes, in authoritarian states that avoid compliance with EU-led regulations;

9.   Stresses the need for robust testing, evaluation, certification, monitoring and verification systems based on clear legal and democratic norms as well as on clear safety and security provisions to ensure that during the entire life cycle of AI-enabled systems in the military domain, in particular during the phases of human-machine interaction, machine learning and adjusting and adapting to new circumstances, the systems and their effects do not go beyond the intended limits and that at all times they are used in a manner that is consistent with the applicable international law; considers that, in the event of these limits being overstepped in a theatre of operations, the civilian or military authorities that deployed AI systems should be held to account;

10.   Highlights that any AI-enabled system used in the military domain must, as a minimum set of requirements, be able to distinguish between combatants and non-combatants on the battlefield, between military and civilian targets, recognise when a combatant surrenders or is *hors de combat*, not have indiscriminate effects, individuate the use of force and not target a certain category of people, not cause unnecessary suffering to persons, nor cruel or degrading treatment, not be biased or be trained on biased data, and be used in compliance with the IHL general principles of humanity, distinction,

proportionality, precaution and the principle of military necessity prior to engagement and during attacks; underlines the importance of the quality of algorithms, original data and ex ante review of decision-making processes;

11. Stresses that in the use of AI-enabled systems in security and defence, the comprehensive situational understanding of the human operator, the predictability and reliability of the AI-enabled system, as well as the human operator's ability to detect possible changes in circumstances and operational environment and their ability to intervene in or discontinue an attack are needed to ensure that IHL principles, in particular distinction, proportionality and precaution in attack, are fully applied across the entire chain of command and control; stresses that AI-enabled systems must allow the military leadership to exert meaningful control, to assume its full responsibility and be accountable for all of their uses;

12. Encourages states to carry out an assessment of whether and how autonomous military devices have contributed to their national security and what their national security could gain from AI-enabled weapon systems, in particular as regards the potential of such technologies to support and enhance human decision-making in compliance with IHL and its principles; recalls that any LAW or weapon with a high degree of autonomy could malfunction on account of badly written code or a cyber-attack perpetrated by an enemy state or a non-state actor;

13. Recalls its resolution of 12 September 2018 on autonomous weapon systems; welcomes in this respect the agreement between the Council and Parliament 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;

14. Calls for the establishment of a European agency for artificial intelligence, the mandate of which would cover common standards, certification and monitoring frameworks, as well as strong bilateral cooperation with NATO when it comes to the deployment, development and use of AI in the military field;

15. Recalls its position of 12 September 2018 on autonomous weapons systems, which states that strikes must not be carried out without meaningful human intervention; calls on the VP/HR, the Member States and the European Council to adopt a common position on autonomous weapons systems that ensures meaningful human control over the critical functions of weapons systems, including during deployment; reaffirms its support for the work on LAWS of the UN GGE of the High Contracting Parties to the Convention on Certain Conventional Weapons (CCW), which remains the relevant international forum for discussions and negotiations on the legal challenges posed by autonomous weapons systems; calls for all existing multilateral efforts to be accelerated so that normative and regulatory frameworks are not outpaced by technological developments and new methods of warfare; calls on the VP/HR, in the framework of the ongoing discussions on the international regulation of LAWS by the states parties to the CCW, to remain engaged and help to advance, without delay, the effort to develop a new global regulatory framework and a legally binding instrument focused on definitions, concepts and characteristics of emerging technologies in the area of LAWS, ethical and legal questions of human control, in particular with regard to their critical

functions, such as target selection and engagement, the maintenance of human responsibility and accountability and the necessary degree of human-machine interaction, including the concept of human control and human judgment, to ensure compliance with international humanitarian and human rights law during the different stages of the lifecycle of an AI-enabled weapon, with a view to agreeing tangible recommendations for the clarification, consideration and development of aspects of the normative framework relating to emerging technologies in the area of LAWS;

16. Stresses that the European Union needs to strive for strategic resilience so that it never again finds itself unprepared in times of crisis, and underlines that, especially where artificial intelligence and its military applications are concerned, this is of crucial significance; emphasises that supply chains for military AI systems which can lead to technological dependence should be recalibrated and that such dependencies should be phased out; calls for increased investment in European AI for defence and in the critical infrastructure that sustains it;

17. Acknowledges that modern arms-race dynamics between major military nation states in the development of LAWS are outpacing the advancement and effective universal application and enforcement of common rules and legal frameworks because information on the development and deployment of these systems is classified and nation states have an inherent interest in creating the fastest and most effective offensive capabilities, irrespective of current or potential future legal frameworks or principles;

18. Believes that it is paramount to global security to have an effective mechanism to enforce the rules on non-proliferation of LAWS and any future offensive AI-enabled technologies.

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INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	6.7.2020
Result of final vote	+: 60 −: 6 0: 4
Members present for the final vote	Alviina Alametsä, Alexander Alexandrov Yordanov, Maria Arena, Petras Auštrevičius, Traian Băsescu, Lars Patrick Berg, Anna Bonfrisco, Reinhard Bütikofer, Fabio Massimo Castaldo, Susanna Ceccardi, Włodzimierz Cimoszewicz, Katalin Cseh, Tanja Fajon, Anna Fotyga, Michael Gahler, Kinga Gál, Sunčana Glavak, Raphaël Glucksmann, Klemen Grošelj, Bernard Guetta, Márton Gyöngyösi, Sandra Kalniete, Karol Karski, Dietmar Köster, Andrius Kubilius, Ilhan Kyuchyuk, David Lega, Miriam Lexmann, Nathalie Loiseau, Antonio López-Istúriz White, Lukas Mandl, Thierry Mariani, David McAllister, Vangelis Meimarakis, Sven Mikser, Francisco José Millán Mon, Javier Nart, Gheorghe-Vlad Nistor, Urmas Paet, Kostas Papadakis, Tonino Picula, Manu Pineda, Kati Piri, Giuliano Pisapia, Diana Riba i Giner, Jérôme Rivière, María Soraya Rodríguez Ramos, Nacho Sánchez Amor, Isabel Santos, Jacek Saryusz-Wolski, Andreas Schieder, Radosław Sikorski, Sergei Stanishev, Tineke Strik, Hermann Tertsch, Hilde Vautmans, Harald Vilimsky, Idoia Villanueva Ruiz, Viola Von Cramon-Taubadel, Thomas Waitz, Witold Jan Waszczykowski, Charlie Weimers, Isabel Wiseler-Lima, Salima Yenbou, Željana Zovko
Substitutes present for the final vote	Nikos Androulakis, Vladimír Bilčík, Marisa Matias, Juozas Olekas, Mick Wallace

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FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

60	+
EPP	Alexander Alexandrov Yordanov, Traian Băsescu, Michael Gahler, Kinga Gál, Sunčana Glavak, Sandra Kalniete, Andrius Kubilius, David Lega, Miriam Lexmann, Antonio López-Istúriz White, David McAllister, Lukas Mandl, Vangelis Meimarakis, Francisco José Millán Mon, Gheorghe-Vlad Nistor, Radosław Sikorski, Isabel Wiseler-Lima, Željana Zovko, Vladimír Bilčík
S&D	Maria Arena, Włodzimierz Cimoszewicz, Tanja Fajon, Raphaël Glucksmann, Sven Mikser, Tonino Picula, Kati Piri, Giuliano Pisapia, Nacho Sánchez Amor, Isabel Santos, Andreas Schieder, Sergei Stanishev, Nikos Androulakis Nikos, Juozas Olekas
RENEW	Petras Auštrevičius, Katalin Cseh, KLemen Grošelj, Bernard Guetta, Ilhan Kyuchyuk, Nathalie Loiseau, Javier Nart, Urmas Paet, María Soraya Rodríguez Ramos, Hilde Vautmans
ID	Anna Bonfrisco, Susanna Ceccardi
VERTS	Alviina Alametsä, Reinhard Bütikofer, Diana Riba i Giner, Tineke Strik, Viola von Cramon-Taubadel, Thomas Waitz, Salima Yenbou
ECR	Anna Fotyga, Karol Karski, Jacek Saryusz-Wolski, Hermann Tertsch, Witold Jan Waszczykowski, Charlie Weimers
NI	Fabio Massimo Castaldo, Márton Gyöngyösi

6	-
S&D	Dietmar Köster
GUE	Manu Pineda, Idoia Villanueva Ruiz, Marisa Matias, Mick Wallace
NI	Kostas Papdakis

4	0
ID	Lars Patrick Berg, Thierry Mariani, Jérôme Rivière, Harald Vilimsky

Key to symbols:
+ : in favour
- : against
0 : abstention