



Faculty of Law and Political Science

May EU universities contribute to defense related research ? When principles confront financial necessity ...

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What is at stake?

Three dimensions to explore:

1. EU institutional framework and the establishment of an EU Defence research fund : Still **a pilot program**
2. Applying EU 2020 research funding principles to defense: **an unsuitable approach**
3. Scientific research in Universities and Defense : **a difficult equilibrium**

1. EU institutional framework and the establishment of an EU Defence research fund : Still a **pilot program**

Defence is an **intergovernmental policy**: Member States in the Council

Research is an EU **supporting competence**: EU's action to encourage and complete Member States' research policy

Objective (article 179)

*The Union shall have the objective of strengthening its scientific and technological bases by achieving a European research area ...while promoting all the research activities deemed necessary by virtue of **other Chapters** of the Treaties.*

No exclusion of **defence** by principle

Research in defence: ethical issues an real concerns for the European Parliament

*Given that the European Commission will dedicate 5 % (or EUR 650 million) of the EDF to **disruptive technologies** – potentially including artificial intelligence, robotics and unmanned systems – the European Parliament should consider launching a debate and/or in-depth study on the role that disruptive technologies should play in CSDP from an **ethical and military-strategic perspective**.*

EP' study on "The Scrutiny of the European Defence Fund by the European Parliament and national parliaments"

- 18 months *Pilot Project for CSDP-related research*
 - Limited budget of €1.5 proposed and voted by the EP in 2014
- 3 years Preparatory Action on Defence research (PADR)
 - €90 million over 3 years (2017-2019).
 - Focus on unmanned/autonomous systems (including drones) and soldiers high-tech equipment.
- From 2021, the EC wants to set-up a **fully-fledged European Defence Fund with a Research section.**

From 2021 to 2027, the EC's proposal plans a total of up to €13 billion coming from the EU budget

€4.1 billion for R&T and €8.9 billion for the development phase. 48.6 billion for 2021-2027 plus member .

Proposal for a **Regulation** establishing the European Defence Fund (under the 2021-2027 multi-annual financial framework).

If EU budget

Therefore European Parliament is legitimated to claim for control over defence policy through the budget instrument

*The European Parliament should work with the European Commission and the Council to **better understand what role it could have during the evaluation of the EDF work programme** (both annually and at the end of the programme period in 2027), as specified by Article 32 of the proposed EDF Regulation (COM(2018) 476 final). (...).*

And will consider the ethical issue as one key factor

2. Applying EU 2020 research funding principles to defence: an unsuitable approach

Guidance on How to complete your self-assessment on ethics, legal and societal aspects (ELSA)

Section 1.1: Law/EU regulations	YES/ NO		Information to be provided in Part B-5.1 of the proposal	Documents to be kept on file ²
<p>Is your research in compliance with: International humanitarian Law? (i.e. distinction, proportionality, precaution, etc.)</p>	<input type="checkbox"/>	<input type="checkbox"/>	Assessment of applicable legal requirements.	Copies of legal approvals and authorisations * (*if applicable).
<p>Convention on Prohibitions or Restrictions on the use of Certain Conventional Weapons?</p>	<input type="checkbox"/>	<input type="checkbox"/>	Assessment of applicable legal requirements.	Copies of legal approvals and authorisations * (*if applicable).
<p>Biological and toxin Weapons Convention?</p>	<input type="checkbox"/>	<input type="checkbox"/>	Assessment of applicable legal requirements.	Copies of legal approvals and authorisations * (*if applicable).
<p>EU and international export Control regulation? (including list of dual-use goods , technologies and munitions list)</p>	<input type="checkbox"/>	<input type="checkbox"/>	Assessment of applicable legal requirements.	Copies of legal approvals and authorisations * (*if applicable).

- List of instruments to review is not comprehensive and main instruments are not included : WA, NSG, AG, ZC, MTCR
- Assessment of those instruments make sense for EU 2020 research funds potentially related to dual use technology but not with research which has a military objective
 - Identification of sensitive end-users or/and end-uses
- « copies of legal approvals and authorisations » usually not available before the project is granted

3. Scientific research in Universities and Defence: a difficult equilibrium

- Almost **no legal prohibition** for Universities to conduct research related to defence

Military research is usually not conducted by the universities in the EU.

Dedicated defence research centres like Belgium Royal Military Academy

But no exclusive: collaboration between UC Louvain and CTMA: *mixed military-clinical-academic* technological platform in charge with the issues related to biological threats

- But **no obligation** as well to accept and conduct military research

Charter of Fundamental Rights of the European Union

Article 13 : *“The arts and scientific research shall be free of constraint. Academic freedom shall be respected”.*

Salamanca Declaration of 2001

The Convention of European Higher Education Institutions, held in Salamanca (Spain) had the objective of formulating the views of the European higher education institutions on the Bologna Process and to convey these views to the Ministers of Education.

“European universities be empowered to act in line with the guiding principle of autonomy with accountability ... (and) ... confirm their adhesion to the principles of the Magna Charta Universitatum of 1988 and, in particular, academic freedom”.

Therefore, it is up to the researcher or her/his institution to decide

A petition signed by over 400 researchers around the EU asks to prevent the research to be financed and used for military purposes:

The EU is prioritising highly controversial research under the PADR, such as the development of robotic weapon systems. Not only will this exacerbate a global race in such technologies, but this could also lead to an increase in arms exports to repressive regimes and fuel conflict. Already EU-made weapons are facilitating violations of international humanitarian law and human rights in a number of conflict zones.

Same concerns than EU 2020 for research involving dual-use items and technology

Two main elements

- Potential contribution to WMD
- Potential contribution to misuse of the research results

Misuse of research : research that could be misused for unethical purposes :

- crime or terrorism;
- chemical, biological, radiological or nuclear weapons and the means for their delivery;
- involves developing surveillance technologies that could curtail human rights and civil liberties;
- involves minority or vulnerable groups or develops social, behavioural or genetic profiling technologies that could be misused to stigmatise, discriminate against, harass or intimidate people

An internal Compliance Program

Necessity for Universities to establish ICP to control and avoid potential **misuses** of research or supporting research in **contradiction with Universities' values**

Prohibition by principle might be in contradiction with academic freedom

To be organized and ruled by an dedicated University Ethical Committee to combine the interests of:

- WMD non-proliferation (dual-use concerns)
- Values (misuse and University's values)
- Technology Transfer Offices (TTO) (valorisation and promotion of research results)

Military and defence sector requiring a certain degree of secrecy and a high degree of control

How it could be compatible with open science/open access principle considered as necessary to improve knowledge circulation and thus innovation?