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Drones and targeted killings: the need to uphold human rights and international law

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A. Draft Resolution

1. The Parliamentary Assembly considers that the use of armed drones for targeted killings raises serious human rights and other international law issues.
2. The Assembly notes that several member States and States enjoying observer status with the Council of Europe or the Parliamentary Assembly have used combat drones as weapons of war or for carrying out targeted killings of people suspected of belonging to terrorist groups in a number of countries, including Afghanistan, Pakistan, Somalia and Yemen.
3. Several Council of Europe member States have purchased combat drones or are considering doing so, or have shared intelligence with States using combat drones for targeted killings, thus assisting them in carrying out drone attacks.

Amendment 2

Tabled by Ms Katrin WERNER, Mr Tiny KOX, Ms Vasiliki KATRIVANOY, Mr Dimitris VITSAS, Mr Georgios PANTZAS, Ms Ioanneta KAVVADIA, Ms Athanasia ANAGNOSTOPOULOU, Mr Nazmi GÜR, Mr Matjaž HANŽEK, Ms Lotta JOHNSON FORNARVE, Mr Tuur ELZINGA, Mr Ögmundur JÓNASSON

In the draft resolution, at the end of paragraph 3, insert the following sentence: "Furthermore, the United States of America is provided with transmission stations in territories of Council of Europe member States that are playing an indispensable role in the execution of drone attacks."

4. Armed drones allow for the carrying out of attacks remotely, without placing the attacker's own personnel at risk of injury or capture. The ability of drones equipped with powerful sensors to loiter over a potential target for some time enables the decision on launching a strike to be based on particularly precise and up-to-date information. These advantages have contributed to lowering the threshold for intervention and increasing the number of drone strikes in recent years. At the same time, the increased precision of drone strikes provides the opportunity to improve compliance with international humanitarian and human rights law.
5. The Assembly is alarmed at the high number of lethal drone attacks, which have also caused considerable unintended "collateral damage" to non-combatants, in contrast with the "surgical" nature of such strikes claimed by those launching them. The constant fear of drone attacks engendered by strikes hitting schools, weddings and tribal assemblies has disrupted the life of traditional societies in the countries of operation.
6. Drone strikes raise serious legal issues, which differ depending on the circumstances in which the strikes are launched:

- 6.1. national sovereignty and the respect for territorial integrity under international law forbid military interventions of any kind on the territory of another State without valid authorisation by the legitimate representatives of the State concerned. Military or intelligence officials of the State concerned tolerating or even authorising such interventions without the approval or against the will of the State's representatives (in particular the national parliament) cannot legitimise an attack; exceptions from the duty to respect national sovereignty can arise from the principle of the "responsibility to protect" (for example in the fight against the terrorist group known as "IS");
- 6.2. under international humanitarian law, which applies in situations of armed conflict, only combatants are legitimate targets. In addition, the use of lethal force must be militarily necessary and proportionate and reasonable precautions must be taken to prevent mistakes and minimise harm to civilians;
- 6.3. under international human rights law, which generally applies in peacetime, but whose application has permeated also into situations of armed conflict, an intentional killing by State agents is only legal if it is required to protect human life and there are no other means, such as capture or non-lethal incapacitation, of preventing that threat to human life;
- 6.4. in particular, under Article 2 of the European Convention on Human Rights (ETS No. 5), as interpreted by the European Court of Human Rights, the deprivation of the right to life must be absolutely necessary for the safeguarding of the lives of others or the protection of others from unlawful violence. Article 2 also requires timely, full and effective investigations to hold to account those responsible for any wrongdoing;
- 6.5. in order to justify a wider use of targeted killings, the notion of non-international armed conflict has been extended by some countries so as to include numerous regions across the world as "battlespaces" of the "global war on terror". This threatens to blur the line between armed conflict and law enforcement, to the detriment of the protection of human rights.
7. Despite some recent progress due to successful court challenges, in particular by the American media, attacks by combat drones are still largely shrouded in secrecy. This relates to both the actual outcome of individual attacks, including the extent of any "collateral damage", and the decision-making process for targeting individuals and balancing potential harm to non-combatants.
8. The Assembly calls on all member and observer States, as well as States whose parliaments have observer status with the Assembly, to:
 - 8.1. scrupulously respect the limits placed on targeted killings under international law and international humanitarian and human rights law, in particular with respect to the use of combat drones;
 - 8.2. lay down clear procedures for authorising strikes, which must be subject to constant supervision by a high-level court and ex post evaluation by an independent body;

Amendment 1

Tabled by Ms Dana VÁHALOVÁ, Ms Kristýna ZELIENKOVÁ, Ms Gabriela PECKOVÁ, Mr Pavel HOLÍK, Mr Miroslav NENUTIL

In the draft resolution, at the end of paragraph 6.1, insert the following words: ", in accordance with, and being mindful of, the principles of the Charter of the United Nations and international law".

- 8.3. to avoid widening the notion of “non-international armed conflict” by continuing to respect established criteria, including the requisite degree of organisation of non-State groups and a certain degree of intensity and localisation of violence;
- 8.4. fully and effectively investigate all deaths caused by armed drones in order to hold to account those responsible for any wrongdoing and to compensate any victims of wrongful attacks or their relatives;
- 8.5. publish the criteria and procedures used for targeting individuals and the results of the investigations carried out into deaths caused by the use of combat drones;
- 8.6. refrain from using, or providing intelligence information or other input for:
- 8.6.1. any automated procedures for targeting individuals based on communication patterns or other data collected through mass surveillance techniques;
- 8.6.2. so-called “signature strikes” not based on the precise identification of a targeted person, but on the target’s pattern of behaviour (except in situations of armed conflict, provided the rules of international humanitarian law are respected);
- 8.6.3. so-called “double-tap strikes”, involving a second strike targeting first responders (for example persons providing medical assistance to the victims of a first strike).

Amendment 3

Tabled by Ms Katrin WERNER, Mr Tiny KOX, Mr Ögmundur JÓNASSON, Mr Tuur ELZINGA, Ms Lotta JOHNSSON FORNARVE, Mr John HALLIGAN, Mr George LOUCAIDES, Mr Matjaž HANŽEK, Mr Nazmi GÜR, Ms Ioanneta KAVVADIA, Ms Athanasia ANAGNOSTOPOULOU, Mr Dimitris VITSAS, Ms Vasiliki KATRIVANOU

In the draft resolution, at the end of paragraph 8.3, insert the following sentence: “Also, US drone strikes facilitated by transmission cooperation on the territory of member States must be investigated by the member States themselves, so as to ensure compliance with article 2 of the European Convention on Human Rights;”

Amendment 4

Tabled by Ms Katrin WERNER, Mr Tiny KOX, Mr Tuur ELZINGA, Ms Vasiliki KATRIVANOU, Mr Ögmundur JÓNASSON, Mr Dimitris VITSAS, Ms Ioanneta KAVVADIA, Ms Athanasia ANAGNOSTOPOULOU, Mr Nazmi GÜR, Mr Matjaž HANŽEK, Mr George LOUCAIDES, Ms Lotta JOHNSSON FORNARVE

In the draft resolution, after paragraph 8.6.3, insert the following paragraph:

“The Assembly urges the Secretary General of the Council of Europe to launch an Article 52 procedure under the European Convention on Human Rights to request information on the manner in which State Parties implement the provisions of the Convention concerning the right to life, with particular reference to their own drone weaponizing programmes, and their cooperation with American programmes through

information-sharing, and facilitation of targeted killings by drones."

B. Draft Recommendation

1. The Parliamentary Assembly, referring to Resolution ... (2014) on drones and targeted killings: the need to uphold human rights and international law, invites the Committee of Ministers to undertake a thorough study of the lawfulness of the use of combat drones for targeted killings and, if need be, develop guidelines for member States on targeted killings, with a special reference to those carried out by combat drones. These guidelines should reflect the States' duties under international humanitarian and human rights law, in particular the standards laid down in the European Convention on Human Rights (ETS No. 5), as interpreted by the European Court of Human Rights.