

EU MILITARY ASSISTANCE UNDER THE NEW EUROPEAN PEACE FACILITY



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EU military assistance under the new European Peace Facility

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Foreword

Dear Readers,

The Konrad Adenauer Foundation is one of the most important foundations in Germany and is represented in some 120 countries worldwide. It is associated with the largest political party in the Federal Republic, the conservative-democratic CDU, which is led by Chancellor Angela Merkel, who is also a member of the foundation's board. The research and analysis conducted by the Konrad Adenauer Foundation serves as a basis for informed decision-making by stakeholders around the world. Thanks to our numerous partnerships, we not only provide a network for dialogue, but also develop and implement our projects in close cooperation with local decision-makers at home and abroad.



The Program: Sub-Saharan Africa Security Policy Dialogue (SIPODI) was established in November 2015 on the occasion of the official opening of the regional office in Abidjan, Ivory Coast. Its main objectives are to promote peace, security, good governance, international cooperation through education and training, security analysis, and dialogue. Regional stability issues arising from a variety of security risks are discussed in seminars, workshops, and conferences.

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In an unstable global environment, the European Union aims to improve its capacity for conflict prevention, to consolidate peace and to strengthen

international security. However, it will only be able to play this role as a global security policy actor if it has adequate instruments at its disposal, which is why the European Peace Facility (EPF) was created in December 2020.

The EPF is the proposal of the High Representative of the Union for Foreign Affairs to establish a new fund of EUR 5 billion outside the multi-annual EU budget. This is to be used in the future to finance operational, military and defense measures under the Common

Foreign and Security Policy (CFSP). The EPF replaces the Athena Mechanism and takes over parts of the functionality of the African Peace Facility (APF) in order to overcome the geographical and thematic obstacles that have so far existed in this area of cooperation.

The characteristics of the new European Peace Facility (EPF) have so far been almost exclusively the subject of a "Brussels" debate largely unknown in Africa. With the present research paper, which is the prelude to a three-part series and was produced in cooperation between the SIPODI program of the Konrad-Adenauer-Foundation and the Boutros Ghali Observatory for Peacekeeping under the direction of the Research and Information Group on Peace and Security (GRIP), we want to stimulate the exchange of security policy ideas between European and African actors already at this early stage of the introduction of the new facility.

We wish all readers an interesting and stimulating reading.

Roland STEIN

Regional Director

Security Policy Dialogue Sub-Saharan-Africa (SIPODI)
Konrad-Adenauer-Foundation

Abidjan, January 2021

Abbreviations

APF	Peace Facility for Africa or African Peace Facility
AMISOM	African Union Mission to Somalia
APSA	African Peace and Security Architecture
AU	African Union
CSBD	Capacity Building in Support of Security and Development
CSDP	Common Security and Defence Policy (of the European Union)
EPF	European Peace Facility
EU or Union	European Union
EUTM	European Union Training Mission
IcSP	Instrument contributing to stability and peace
MINUSMA	United Nations Multidimensional Integrated Stabilization Mission in Mali
NDICI	Neighbourhood, Development and International Cooperation Instrument
PSO	Peace support operations
ERM	Early Response Mechanism

1. Introduction

Over the last few years, the European Union (EU) has begun a process of reflection that should lead it to reform its aid policies for peace and stability. In doing so, it would like to extend its competence in the field of military assistance. At first glance, this objective appears simple. However, it is not. Indeed, when the Union ventures into the world of defence, things generally tend to become more complicated.

A common, though contested, interpretation of the European treaties is that the EU cannot finance the military sector through its standard budget¹. To circumvent this obstacle, it has therefore decided to launch, from 2021 onwards, an instrument financed by the Member States on an ad hoc basis, with an exclusively military vocation: The European Peace Facility (EPF). The new Facility should bring together the main non-budgetary tools already available to the Union to provide limited and circumscribed support for certain defence activities, with a view to widening their scope of action. More specifically, it should bring together

- The Athena mechanism, the budget that enables the EU to finance its common costs for the military crisis management missions it deploys;

- The African Peace Facility endowment funds used to support the military dimension of African Peace Support Operations (PSOs)², separating them from the

development cooperation programmes that pursue civil objectives.

The EU's ambitions have been the subject of intense debate in Brussels. The problem is not so much the process of administrative rationalisation, but rather the idea that the Union could, in this context, increase its competences in the field of defence. On this point, Europeans had been entangled for more than two years in endless discussions about the form and nature of the new Facility, particularly with regard to what it should actually finance. Should it support military activities directly, or should it do so indirectly, as the development cooperation instruments have done so far? Should it finance transfers of lethal weapons, and if so, under what conditions? How should it work in practice?

The objective of this note is to re-examine this debate (which was mainly happening in Brussels) in order to open it up to our African partners. The stakes of the EPF are indeed important to understand not only for Europeans, but also for African societies, which are ultimately among the ones mainly targeted by this new tool.

This study therefore intends to analyse what is being said in Brussels, in order to echo it in Africa, through the organisation of seminars and meetings.

¹ . Art. 41.2 of the Treaty on European Union.

² . In a Resolution adopted in 2016, the European Parliament's Committee on Foreign Affairs defines peace support operations (PSOs) as "form of crisis response, normally in support of an internationally recognised organisation such as the UN or the African Union (AU), with a UN mandate, and designed to prevent armed conflict, restore, maintain or build peace, enforce peace agreements and tackle the complex emergencies and challenges posed by failing or weak states". According to the Africa-EU Partnership, PSOs "aim to ensure public security through a range of civil and military actions that include the maintenance of peace and public order, policing, infrastructure reconstruction, political dialogue and national reconciliation" (emphasis added, unofficial translation).

2. The EU's first steps in the military field

2.1 The Union's military crisis management missions

The questions posed above, and in particular whether or not to transfer lethal weapons, may seem trivial for an instrument with a military purpose. However, they are not for the Union. To understand the nature of this debate, one has to go back twenty years.

The EU is a relatively young military actor. Its first steps in this field date back to December 1998, when then French President Jacques Chirac and British Prime Minister Tony Blair decided to launch the Common Security and Defence Policy (CSDP). The decision to confer military powers on the Union represents a turning point in the history of this institution, which was born and lived for more than 50 years as a civilian entity designed to prevent war between its members. This turning point finds its roots in the Balkan wars in the 1990s, when Europeans realised that they were incapable of intervening within a few dozen kilometres of their borders to pacify former Yugoslavia. The CSDP emerged after this acknowledgement of powerlessness. Its aim was to give the Union the capacity to deploy military and civilian crisis-management missions outside its borders. Since then, it has evolved slowly and with difficulty, but has nonetheless managed to timidly make its way forward. While the Balkans were the initial background for the nascent European defence policy, Africa soon entered the equation. It was mainly to this continent that CSDP finally turned its attention. The first military operation conducted in Africa under the EU flag was the Artemis mission, deployed in 2003 in Bunia, Democratic Republic of Congo. Other missions have followed, enabling the Union to go beyond its status as a mere "soft power" or as the civilian power that it has been for a long time. Since then, the Union has had military means in its toolbox, although these are still limited and circumscribed.

However, these developments have not transformed the Union into a "hard power". Whether conducted in Africa or elsewhere, CSDP military missions have all remained small-scale, low-intensity and limited in time and space. The EU has never engaged in real combat actions but rather remained a cautious player, tending to avoid the use of force. Thus the strategic impact of its military actions has inevitably remained limited. One could even argue that EU operations too rarely

had a decisive influence on the course of the crises involving a European intervention.

In recent years, this mixed record has prompted the EU to change its approach. Rather than intervene in African conflicts by deploying ground troops with a narrow operational mandate, as it had done in the Democratic Republic of Congo or Chad, the EU has decided to focus on military training missions. The aim was to strengthen the capabilities of Africans to enable them to resolve their countries' crises themselves, while at the same time enabling Europeans to avoid over-committing themselves. From 2012, the EU Training Missions or EUTMs began to be deployed in Mali, the Central African Republic and Somalia³. These are now among the largest in the EU, alongside missions in the maritime field. As will be seen later, this move towards military training operations will play a key role in the debate on the scope of the European Peace Facility, especially in relation to the thorny issue of arms transfers.

2.2 The African Peace Facility (APF)

The European Union's entry into the world of defence was not limited to the simple deployment of military crisis management or training missions. While the EU was trying to establish CSDP, it also wanted that part of its development cooperation policies be oriented towards programmes aimed at strengthening African capabilities to carry out peace support operations, including with military means. However, this has met with considerable resistance.

The idea of using development aid budgets to finance defence activities is part of the so-called "security/development nexus" principle⁴. According to this approach, any strategy for socio-economic assistance must first and foremost contribute to promoting the stability and security of the societies it is aimed at, if it is to be successful. The British economist Paul Collier summed up this by saying "war retards development, but conversely, development retards war"⁵.

It was on the basis of this premise that the EU began to reflect, in the early 2000s, on the possibility of drawing on its development budgets to support African military peace operations. In 2003, it moved from words to deeds: it proposed to create the African Peace Support Facility, which we will simply call the African Peace Facility (APF), suggesting to finance it by

³. EUTM missions often operate in tandem with EUCAP (EU Capacity Building Mission) civilian crisis management missions under CSDP, which aim to strengthen the civilian domain of the security sector in partner countries.

⁴. Within the EU, the interdependence between security and development is mentioned in countless documents. It appears in particular in the first strategic document adopted by the EU in Security Strategy - A Secure Europe In A Better World 2003, and in a subsequent update of this text in 2009. The concept is also included in the Union's Global Strategy for the European Union's Foreign And Security Policy, endorsed in 2016.

⁵. Collier, P, V. L. Elliot, Hegre, H., Hoeffler, A., Reynal-Querol, M. & Sambanis, N., *Breaking the Conflict Trap: Civil War and Development Policy*, Washington, DC: World Bank & Oxford University Press, 2003, p. 1.

the European Development Fund, a tool for civilian aid mainly in Africa⁶.

Such a proposal was bound to provoke considerable controversy, particularly among various non-governmental organisations⁷ and certain circles rejecting fundamentally the idea that development aid budgets could be used to support military operations. Development actors are strongly attached to the civilian nature of aid. And they are not the only ones. Many Member States have also been cautious about the APF project. Initially, 12 out of the 15 Member States of the EU in 2003 expressed doubts, and in some cases even outright rejection⁸.

Conversely, France and the European Commission have been very insistent that this project should see the light of day. The then European Commissioner for Development and Humanitarian Aid, Poul Nielson, and the African Union's Commissioner for Peace and Security, Said Djinnit, joined forces in 2003 for the AU to adopt a formal declaration calling on the EU to set up a peace support instrument⁹. In order to convince the most reluctant, the Commission had also sought to recognise that using the European Development Fund to finance the APF should be 'exceptional and transitional', stressing the need to find another source of non-development funding¹⁰ at a later stage.

After long negotiations, a compromise was finally reached in 2004. In order to overcome its internal stalemate, the Union had to ensure that the APF funds could only be used through civilian measures indirectly supporting military capacity building and thus adopting an institution-building approach compatible with the development paradigms. This approach is what allowed for the APF to be created.

Originally endowed with €250 million, the African Peace Facility has known quite some success and gradually reached a cumulative budget of €3.5 billion over the period 2004-2019. There are three main components of the Facility¹¹:

- a.** An envelope dedicated to the financing of civil and military peace support operations. To date, the EU has earmarked €2.7 billion for PSOs, including €2.1 billion for AMISOM since 2007. This is the main area of commitment under the APF.
- b.** An envelope dedicated to capacity building supporting the operationalisation of the African Peace

and Security Architecture (APSA). The objective is to strengthen the institutional capacity of the African Union Commission, Regional Economic Communities and Regional Mechanisms.

- c.** The Early Response Mechanism (ERM), which complemented the APF in 2009, is a fast-track administrative procedure allowing the Union to adopt urgent assistance measures in response to a crisis, such as preventive diplomacy, mediation, fact-finding and observation missions, and initial steps to launch peace-support operations.

The APF is thus unsuitable to equip the military component of an African peace support operation with lethal or non-lethal combat equipment. It can, however, cover the costs related to i.e. the transport, accommodation and food supply of military personnel, and support capability development. Conversely, the purchase of ammunition, weapons and specific military equipment, including spare parts for equipment seen as military, are not eligible costs. Funding for military salaries and training of soldiers is also prohibited.

2.3 Military or civilian? The African Facility in a grey area

Although it cannot offer lethal military assistance, the African Peace Facility nevertheless operates in a grey area. In this regard, it should be noted that while it cannot support military salaries, it can finance transport, communications and command equipment, and the living expenses and bonuses of soldiers on mission. Most of the peace operations carried out under the aegis of the African Union over the past 15 years would simply not have been possible without this valuable assistance.

Given their sheer volume in personnel, African military missions – first and foremost AMISOM – have inevitably been the main recipients of the APF. They have, by their nature, received funding of a completely different magnitude from the APSA or the Early Reaction Mechanism, which, unlike PSOs, are clearly civilian¹².

Of the €3.5 billion allocated by the EU between 2004 and 2019 under the APF, €2,681 million (93%) supported PSOs; almost €172 million was used for APSA capacity building (6%) and €28 million was dedicated to ERM (1%)¹³.

⁶. Theoretically, the Union's proposal echoed a request from the African Union Assembly of 21 December 2003: Decision on the establishment by the EU of a peace support operation facility for the African Union.

⁷. Carbone, M., "An Uneasy Nexus: Development, Security and the EU's African Peace Facility"; *European Foreign Affairs Review*, Volume 18, Issue 4 (2013) p. 103-123.

⁸. LOISEL, Sébastien, "La création de la "Facilité de paix pour l'Afrique". Jeux sectoriels dans l'élaboration d'un instrument européen de gestion des crises, *Politique européenne*, Vol. 51, No. 1, 2016, p. 97.

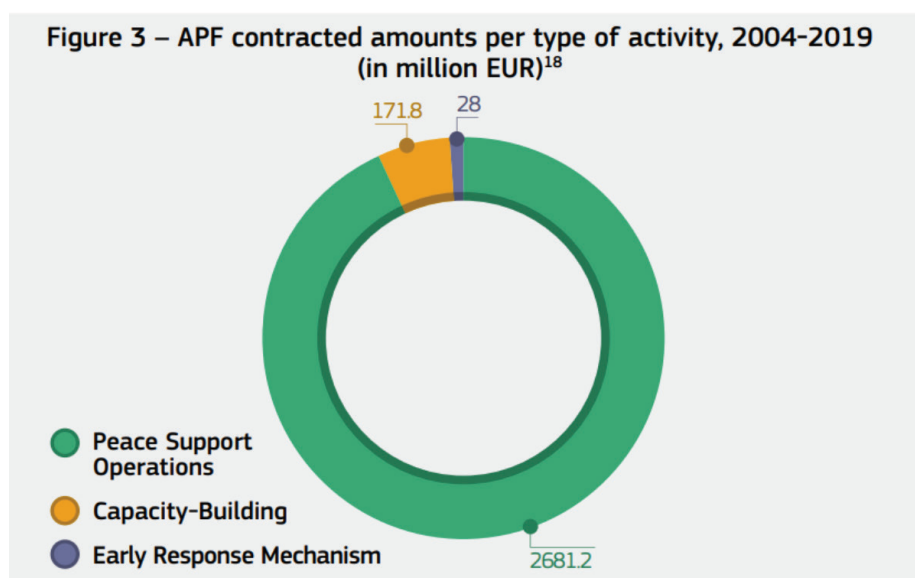
⁹. *Ibid.* p. 98.

¹⁰. *Ibid.* p. 101..

¹¹. European Commission, "Peace Facility for Africa - Annual Report 2019", p. 3.

¹². Note that the ERM can still be used to finance the initial costs of launching a PSO.

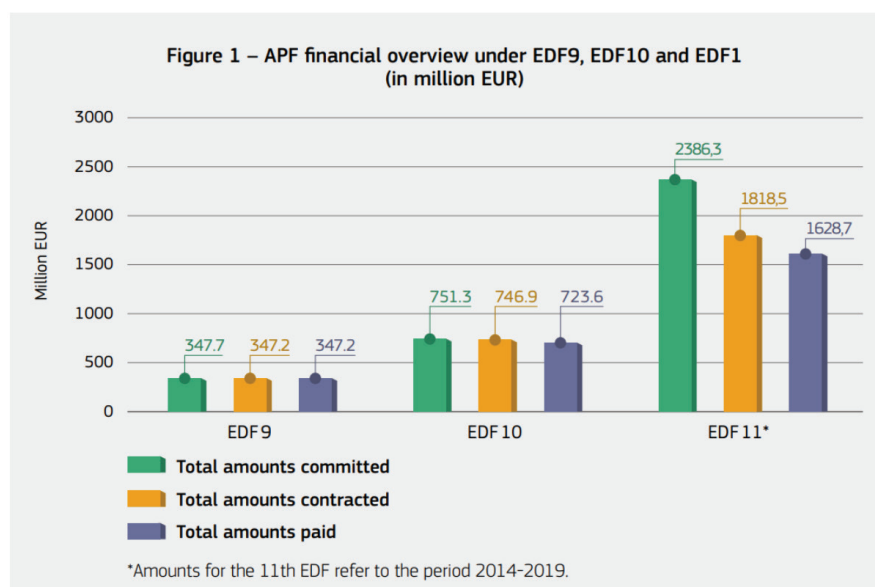
¹³. European Commission, "African Peace Facility: African Union Peace & Security Operations boosted by an additional €800 million from the European Union", 22 July 2019.



This scheme is taken from the Commission document indicated in footnote 11.

Since it was launched, the APF budget has increased significantly over time. Between 2004 and 2007, €348 million were initially allocated to it rising to €751 million during 2008-2013 and finally reaching a total of €2,386 million during 2014 to 2019, mainly because of the knock-on effect of the premiums paid to AMISOM soldiers. However, this gradual growth of the APF is also explained by the emergence of new crises in Africa that

have particularly worried Europeans, especially with regard to the terrorist threat (Sahel, Central African Republic, Lake Chad Basin). The decision to deploy peace operations to these areas thus mobilising a large part of the APF has been made to the detriment of actions of a more strictly civilian and structuring nature (see annexed list of actions carried out by the APF from 2004 to 2019).



scheme is taken from the Commission document indicated in Footnote 11.

2.4 Other EU civilian programmes supporting the military field

The African Peace Facility has undeniably enhanced the Union's role in the area of security cooperation.

However, as mentioned above, it has not enabled the Union to provide military equipment, including lethal equipment, to its partners. A further constraint has been the impossibility to engage in bilateral military cooperation with a third country, given that the APF

can only support peace operations conducted by the AU or African regional organisations mandated by the AU.

Yet, the urgency to overstep these limits began to be felt from 2013, when the Union deployed its first EUTM military training missions, notably in Mali and Somalia, under the CSDP. In launching these training missions, the EU found itself in the paradoxical situation whereby it could train the armies of its partners without having a tool to equip them. It was in this context that the German concept of the "Enhance & Enable Initiative (E2I)"¹⁴ emerged and was then adopted by the Union under the "Train & Equip" formula in order to fill the gaps of the APF.

This formula implies that the EU can use its development cooperation funds or the EU budget to provide equipment to units in countries it trains bilaterally.

The "Train & Equip" option, however, was bound to face the same obstacles encountered ten years earlier by the African Peace Facility given that the reluctance to use development aid for military purposes inevitably resurfaced.

In 2017, after intense debate, the "Train & Equip" project was definitively abandoned in favour of a new tool with more modest ambitions, called "Capacity Building for Security and Development" (CBSD). The CBSD is in fact a simple amendment which extends

the scope of the EU's main development cooperation programme to peace building and conflict prevention, namely, the Instrument contributing to Stability and Peace (IcSP). While the IcSP covers a wide range of civilian actions that contribute to crisis resolution or prevention¹⁵, the CBSD broadens the range of civilian actions available to the Union, allowing the financing of certain types of training, equipment and infrastructure for military actors within a limited framework.

Specific areas where partner countries can benefit from support under the CBSD are:

- Training in areas such as human rights, governance and human resource management;
- Provision of advice and technical cooperation;
- Provision of equipment and improvement of infrastructure, such as IT systems, protective equipment, health infrastructure, training equipment and facilities¹⁶, etc.

The European Commission, in charge of managing the CBSD, has made it clear that this new instrument cannot be used for the acquisition of weapons, ammunition or any other lethal equipment, and that "This is not about replacing development tools with a militarised approach"¹⁷. The CBSD has ultimately not been able to cover the EU military supplies needs.

3. The new European Peace Facility

The European Peace Facility (EPF) was created with the intent to organize the Union's set of tools, fill the gaps and bring together the two main pieces of the military puzzle discussed in the previous paragraph into a single, coherent and separate instrument. The EPF should better cover the common costs of CSDP military crisis-management missions and take over and deepen certain military-specific competences of the African Facility.

The strictly civilian interventions of the APF, as well as those of the CBSD (all of which are civilian in nature), will, however, have to be reassigned to a

new major development cooperation programme, the Neighbourhood, Development Cooperation and International Cooperation Instrument (NDICI)¹⁸ that the EU is about to set up, and that should be managed separately from the EPF.

3.1 The scope of the new Facility and its budget

The European Facility is not just about complementing the Union's thematic competences in military matters. Its scope of action should also be extended beyond Africa by removing any geographical restrictions. The sectors it is supposed to finance can be grouped into the following four groups of action¹⁹:

¹⁴ . Germany introduced the "Enhance & Enable" initiative in 2011 with the aim of enabling regional actors to ensure security and stability in their own regions, ranging from crisis prevention to crisis management, post-crisis rehabilitation and peacebuilding.

¹⁵ .Among the many actions supported by the IcSP are mediation, DDR (disarmament, demobilisation and reintegration), rehabilitation of infrastructure or democratic institutions and conflict analysis.

¹⁶ .European Commission, Fact Sheet - Question and Answers: Measures in support of security and development in partner countries, 7 December 2017.

¹⁷ .European Commission, *ibid.*, 7 December 2017.

¹⁸ .European Commission, Proposal for a Regulation of the European Parliament and of the Council establishing the European Neighbourhood, Development Cooperation and International Cooperation Instrument, 14 June 2018.

¹⁹ .EEAS, Proposal of the High Representative of the Union for Foreign Affairs and Security Policy, with the support of the Commission, to the Council for a Council Decision establishing a European Peace Facility, 13 June 2018.

a. Increase funding for CSDP military operations

To date, between 85% and 90% of the costs of CSDP military missions are borne directly by the contributing states (the "costs fall where they lie" principle) and through voluntary contributions, established on a case-by-case basis. The Union, through the Athena mechanism, can only cover a few common expenses not directly related to military activities, such as soldiers' accommodation, fuel or certain operating expenses of the military staff. These costs, which never exceed 15% of a mission's total budget, do not encourage Member States to engage in CSDP. Through the EPF, the EU aims to better cover overall mission costs in the hope to facilitate the process of launching Peace Support Operations

b. Financing predominantly military peace support operations led by partners

The EPF is intended to inherit the APF's expertise in peace operations. But unlike the African Peace Facility, it will be able to provide direct military assistance, including lethal assistance, although this will be subject to strict conditions that will be discussed further in this note. Such support could include the provision of all types of defence equipment and possibly, depending on local circumstances and the guarantees provided, arms and ammunition. Support for military training or command and control systems currently under the APF will of course be integrated into the EPF. The same applies to rapid response actions that arise prior to a military peace operation.

c. Strengthening the military capabilities of third states or regional organisations

The new Facility is not limited exclusively to supporting peace operations carried out by the Union's partners. It could also finance the building of military capabilities of individual third countries or international organisations on a bilateral basis. In this regard, it should be recalled that the African Facility cannot currently do so, since it targets solely peace operations conducted by African regional organisations or mechanisms under the aegis of the AU.

d. Financing other operational actions of the Union with defence implications

This formulation aims to maximise the flexibility of EPF. The Union intends to be able to act in all circumstances, without depending on too strict legal constraints. However, the vagueness of this provision has been criticised by some Member States and civil society.

To provide a clear understanding of what the EPF is

all about, Matias Denecker, an EU military cooperation specialist, also identified what it is not supposed to do²⁰:

- o The support and institution building component of the APSA within the current APF will not be financed by the new EPF, but by development cooperation programmes that will be part of the regular EU budget, given that it has no direct military dimension.

- o Similarly, mediation and preventive diplomacy activities currently funded under the APF (Early Response Mechanism) are also likely to be included into the development aid programmes.

- o Logically, the new European Facility will not include the many other civilian activities specifically addressing peace and stability issues that the European Union carries out under its development cooperation policy. The European Peace Facility is therefore introducing two major innovations into the Union's toolbox, namely, it authorises the Union to transfer defence equipment, including lethal equipment, and allows the provision of military support to a single third state in the framework of a bilateral relationship. This expansion of EU competences is reflected in the increase of the EPF budget compared to the APF budget. Initially, the EU had planned to allocate €10.5 billion to the new Facility for the period 2021-2027. This amount was later reduced to €5 billion during long and complex EU budget negotiations.

Nonetheless, considering that the APF has only made available €2.4 billion over the last seven years (2014-2020), the €5 billion EPF allocation for 2021-2027 should allow the Union to enhance its military assistance policies.

Expanded Union action through the increased EPF budget is nevertheless intended to remain limited. According to some estimates, the new European Facility is expected to provide about an extra €300 million to the Union for new military assistance policies. This rough calculation hinges on the fact that the EPF will have to continue to finance African PSOs already covered by the APF (between €2 and 2.5 billion over 7 years). In addition, the EPF will now have to cover the common costs of CSDP military missions, which so far have been around €75 million per year (€525 million over 7 years). These costs could increase but will nevertheless remain contained.

In view of these amounts, it is possible that 3 out of the 5 billion euros of the EPF budget will have to continue to finance the already existing African PSOs, and also to take over the costs of CSDP military missions, which

²⁰ . DENECKER Matthias, "The uncharted path towards a European Peace Facility", ECDPM Discussion Paper No. 248, March 2019. ²⁰ DENECKER Matthias, "The uncharted path towards a European Peace Facility", ECDPM Discussion Paper No. 248, March 2019

the APF did not do. The remaining budget over seven years to finance bilateral defence equipment transfers or to support new PSOs, possibly outside the African continent, would therefore amount to €2 billion²¹.

3.2 The governance of EPF and the underlying policy logic

Another important element that distinguishes the EPF from the APF is its governance. At first glance, an analysis of European administrative procedures may seem daunting, but it remains essential to understanding the logic behind the policy choices made in Brussels.

The African Facility was established in 2004 by a Council Decision, i.e. by the EU Member States, which decided to finance the APF with resources of the European Development Fund, which is separate from the EU budget but is still co-managed with the European Commission as part of its development assistance competences.

In this area, the Commission plays an important policy role: it holds the power of policy initiatives as well as the day-to-day management of the tool, although the Council is fully involved in the decision-making process. The African Facility has been administered for over sixteen years in this way, on the basis of the Commission's own developmentalist logic, albeit closely with the Council and the European External Action Service (EEAS). As we have seen, it has indirectly supported the military aspects of peace support operations, presenting its action as a policy to strengthen the institutional capacities and governance of African organisations.

The new European Peace Facility will operate according to a different logic. In view of its purely military mission, oversight will no longer be devolved on development cooperation programmes controlled by the Commission. The intention is to integrate it with the Union's Common Security and Defence Policy (CFSP), which already includes the CSDP (the defence policy), and which operates in a purely intergovernmental manner.

In concrete terms, this means two things:

- The EPF will be under the strict control of the Member States, which will meet in the Council and its related committees and groups to take the most important decisions unanimously. These will then be implemented by the EEAS, which is under the control of the High Representative of the Union, who in turn acts under the supervision of the Council when it intervenes in the field of CFSP²².

- In this new context, the Commission, as the main supranational institution of the Union, will have only a marginal and purely executive role in the new EPF. In particular, it will not have the power to take political initiative. The initiative will be devolved on the Member States or the High Representative of the Union. The Commission will only exercise this power jointly with the High Representative and at best play a secondary role.

Beyond these administrative and procedural complexities, the thing to remember here is that the Council and the Commission are two institutions that operate from different perspectives:

- The Council represents the Member States and the compromises they manage to forge between them. It is the sole master on board the CFSP and CSDP, and of the EPF in future. However, the CFSP/CSDP is a diplomatic policy that tends to act in the short/medium term, with the aim, in particular, of responding to the immediate security imperatives of the Member States.

- The Commission, on the other hand, must represent the general European interest. The development cooperation policies it manages are also intended to provide longer-term structural responses to the challenges such policies face.

The shift from APF to EPF has raised concerns that the Union may end up focusing on short to medium-term cyclical responses rather than long-term structural policies. However, a careful examination of past actions financed by the African Facility (see Annex I) suggests that such fears are unfounded, given that the Facility was already entrusted with providing immediate responses to crises.

Indeed, the APF has always favoured support for ad hoc operations, which are part of the security agendas of the moment, to the detriment of more structural policies. Most of its funding has thus gone to PSOs launched in response to emergency situations, such as AMISOM in Somalia, the G5 Sahel Joint Force since 2017, or the Joint Multinational Force against Boko Haram in the Lake Chad Basin since 2015. The more structured dimension of the APSA, however, has received only 6% of the overall APF budget.

The new European Facility is unlikely to change the approach of the African Facility, which focuses primarily, although not exclusively, on short- to medium-term responses to crises. This, moreover, should not necessarily be viewed negatively for an instrument with a purely military mission distinct from development cooperation. Military interventions are never a structural and long-term response to

²¹ . HAUCK Volker, "The latest on the European Peace Facility and what's in it for the African Union", ECDPM, Briefing Note n° 120, September 2020.

²² . BESCH Sophia, "EU's Institutional Framework regarding Defence Matters", study published by the European Parliament in January 2020.

crises, but should allow political and civilian solutions to be implemented in a favourable security context. Furthermore, it should not be forgotten that the Union's development aid programmes, which should address security cooperation, and which should do so on the basis of a more structured approach, have not been replaced but have simply been separated from the EPF and the Union's military competences.

Despite the foregoing, the Union still resolved that the EPF, in addition to the specific actions it will carry out, should also have a certain capacity to act in the longer term. Thus, the military assistance to be provided by the EPF to EU partners could be based on two categories of actions: "ad hoc assistance measures" and "multi-annual action programmes"²³. The latter should make the European Facility's interventions



more predictable for the beneficiaries, by making it possible to add structuring objectives to its short/medium-term objectives.

Finally, it is worth mentioning that the European Parliament, just like the Commission, has been marginalised in the management of the new EPF. However, the marginalisation of the EP is not new, given that this institution was already partially sidelined in the APF²⁴. Nevertheless, MEPs have expressed the wish to be consulted and informed by the High Representative of the Union and the EEAS hierarchy about the major choices that will be made²⁵. These consultations will be informal and not leave any substantial powers to the European assembly.

²³ .Articles 6 and 49 of the Proposal of the High Representative of the Union for Foreign Affairs and Security Policy, with the support of the Commission, to the Council for a Council Decision establishing a European Peace Facility, 13 June 2018.

²⁴ . The European treaties give the European Parliament powers of control and proposal only in the context of the official EU budget. However, the EPF budget, like the APF budget or the Athena mechanism used to finance the common costs of CSDP military missions, is not part of the EU budget. This is because the Community budget does not authorise operational expenditure with military implications (Art. 41.2 of the Treaty on the Functioning of the European Union). The European Facility will therefore be financed from a separate fund. This fund will be financed by contributions from the Member States calculated on the basis of a distribution key based on their gross national income, as is already the case for the European Development Fund, which finances the APF, and for the Athena mechanism.

²⁵ European Parliament, "European Parliament recommendation of 28 March 2019 to the Council and the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy concerning the Proposal of the High Representative of the Union for Foreign Affairs and Security Policy, with the support of the Commission, to the Council for a Council Decision establishing a European Peace Facility", adopted on 28 March 2019

MEASURES TO ASSIST THE UNION'S PARTNERS: THE DIFFERENCES BETWEEN AFP AND FEF	
African Peace Facility (APF)	European Peace Facility (EPF)
Budget and geographical coverage	
Geographical coverage limited to Africa.	Worldwide geographical coverage.
Annual budget in the range of €300 million on average over the last six years (2014-2019).	Annual budget for military assistance increased compared to that of the APF but unknown at this stage. The EPF will a priori have approximately €715 million per year. This sum will also be used to finance the common costs of CSDP military missions. So far these have been around €75 million per year, but are expected to increase slightly over the next seven years.
Type of activities financed	
Indirect support to multilateral African military missions engaged in PSOs (troop transport, soldiers' living expenses, communication equipment, infrastructure such as barracks, etc.).	Ditto.
Prohibition on the supply of military and therefore lethal equipment.	Direct military assistance to PSOs, including through the transfer of lethal equipment and support for military combat training activities.
Limited support to African multilateral PSOs. Prohibition of <i>ad hoc</i> support to single country capacities.	Authorised bilateral military assistance, including through the transfer of lethal equipment and support for military combat training activities.
Strengthening the institutional capacities of African organisations, particularly APSA, through actions of a civil nature (<i>institutional building</i>).	 <div style="border: 1px solid black; padding: 5px; display: inline-block; margin-left: 10px;">Activity transferred to the new development cooperation programmes managed by the Commission</div>
Early Response Mechanism (urgent prevention, mediation and de-escalation measures).	 <div style="border: 1px solid black; padding: 5px; display: inline-block; margin-left: 10px;">Activity transferred to the new development cooperation programmes managed by the Commission</div>
Terms and conditions of management	
Obligation to obtain prior approval from the African Union before any APF intervention.	The consent of the regional organisation or country which is to be supported by EPF is sufficient.
Governance based on the EU model used in other EU development cooperation programmes. Important management role assigned to the Commission. The Council and related committees participate in decision-making on the basis of unanimity.	Governance based on the CFSP model, of a purely inter-governmental nature. Main role entrusted to the Member States meeting within the Council and voting unanimously. They are supported by the High Representative of the Union and the EEAS.

4. The bone of contention: lethal weapons

The terms of the new European Peace Facility were negotiated for over a year in Brussels. Talks began on 13 June 2018, when the official proposal to create this tool was published by the European External Action Service. Theoretically, the EPF should have been adopted before the end of Finland's EU Presidency, i.e. by 31 December 2019. However, it will take until December 2020 for a political agreement to be reached and mid-2021 for it to be translated into legal terms. In order to ensure the continuity of its activities in support of African PSOs, the Union was thus obliged to extend the action of the APF until June 2021²⁶.

The reasons for these difficulties and delays remain the same, and have been discussed in the introduction to this note. The Union's acquisition of new military capabilities is a relatively recent and controversial development. In this sector, the EU is making slow progress, through endless negotiations and hesitations, just like in 1998, 2004 or 2017, respectively, when the CSDP, APF and CBSD were launched. In this regard, the EPF has been no exception.

4.1 The debate

Europeans have had a hard time agreeing on many sticky points, the most important of which was the thorny issue of the transfer of defence equipment, including lethal weapons. The possibility for the EU to supply armaments to its partners is a new development in the history of European integration. The EU is mainly known in the world for its development cooperation policies, and has never done this before.

As we have seen throughout this note, such a novelty, however, is not a bolt out of the blue. It is part of a slow but steady process through which the Union has become a fully-fledged defence player. The need for Brussels to transfer arms became especially evident since 2013 when CSDP operations began to evolve into military training missions. In a study on EUTM Mali, researcher Denis M. Tull noted that some Malian units were sometimes trained with equipment they did not have, without the EU being able to transfer it to them²⁷.

In short, Brussels quickly realised after deploying the European Union Training Mission that for it to be

effective and carry political weight, it had to provide military equipment to the officers and soldiers who take part in its training.

There also needs to be coherence and coordination in the Union's transfer of arms. Several European countries have their own military aid or security sector support programmes. However, these programmes can occasionally be poorly coordinated and lead to duplication. In recent years, for example, Mali has reportedly received non-interoperable means of communication from different donors, which has made their use complex and costly²⁸. Thanks to the EPF, the EU should now be able to better coordinate the military transfers of its members, at least in the regions where it will intervene.

France is the country that has unsurprisingly fought the hardest for the Union to be able to supply lethal weapons to its allies. Before the creation of the APF in 2004, Paris had already campaigned in vain on this subject, and took it up again some fifteen years later in the framework of the new EPF. This time around, however, in its difficult, the French plea obtained strong support, including from Spain, which proved to be one of the countries most strongly in favour of strengthening the Union's powers in the area of military cooperation. Italy was the second country to also defend this option, albeit more discreetly. Lastly, Germany's firmness on this issue surprised many diplomats.

Although Berlin has traditionally been cautious and measured in military and export matters, it has now unambiguously sided with France and Spain. This assertive stance can be explained in part by the Bundeswehr's feedback from Mali. Since 2013, the German army has invested heavily in the training of Malian forces, including through EUTM Mali but also through MINUSMA (the United Nations peacekeeping mission)²⁹. German officers have strongly felt the need to equip the units they train, and have consequently raised the issue with the highest levels of the state³⁰. In 2019, Angela Merkel intervened personally in the debate, pleading for the usual restrictions imposed by the German Parliament on arms transfers to Africa, and particularly to the Sahel, to be lifted³¹.

²⁶ The APF was replenished with a budget of 129 million euros until July 2021, when it should normally have given way to the EPF in January 2021: European Commission, Proposal for a Council Decision on the allocation of funds decommitted from projects under the 10th European Development Fund for the replenishment of the African Peace Facility, COM2020 (477) Final.

²⁷ TULL, Denis M., "The European Union Training Mission and the Struggle for a New Model Army in Mali", IRSEM Research Paper n° 98, février 2020

²⁸ Matthias DENECKER, Ashley NEAT and Volker HAUCK, "The future of EU security sector assistance: learning from experience", ECDPM Discussion Paper No. 271, May 2020

²⁹ Nearly 1,500 men and women have served in these two missions since 2013: "Germany's engagement for Mali: Ensuring security, maintaining stability, Federal Foreign Office, 13 May 2020

³⁰ Interview with German officials.

³¹ "Angela Merkel calls for weapons exports to Africa", Deutsche Welle, 27 November 2019.

On the opposing side, those who have long been reluctant to allow the EU to transfer lethal weapons were fundamentally afraid of four things:

- That they could be used to overthrow civilian regimes;
- That they could be used to violate human rights;
- That they could be diverted and end up in the wrong hands, especially when they are sent to highly unstable or even failed countries;
- And lastly, that they could as such discredit the role of the Union as a humanitarian and development actor.

Internal political issues have also played an important role in the opposition of several EU countries to this issue. Some of them, especially the smaller ones, are simply not used to dealing with the geopolitical issues involved in arms transfers because of their national history or constitution, or more simply because of their lack of political and diplomatic experience in this area. These countries have no strategic practice or experience in this area, and have therefore been hesitant in negotiating the EPF.

In addition, some Member States face legal constraints due to their neutral position (Ireland, Sweden, Malta and Austria). They generally tend to challenge any extension of the Union's defence competences. Some of them are in fact well-known arms exporters (notably Sweden and even Austria as far as small arms³² are concerned), but the authorities of these countries are nevertheless afraid of how their public opinion, which is hostile to arms transfers to unstable regions in Africa, would react. Above all, therefore, the governments of neutral countries want to avoid that the new Facility would end up reopening the thorny issue of the wider debate on defence exports in their own capitals.

The coup d'état in Mali in the summer of 2020 has certainly not allayed the fears of the most reticent countries. The Union was forced to temporarily suspend the EUTM Mali training mission. Nevertheless, the relevance of transferring arms has not been questioned by the bigger Union countries. Their weight has inevitably come into play in this fierce debate. It was during the very last days of the German Presidency of the Union that a political compromise was finally reached.

4.2 The compromise

The compromise arrangement reached by the Member States is one of those well-kept European secrets. In practice, the EU will be able to provide its partners with lethal or non-lethal defence equipment

it deems appropriate to transfer to them. At the same time, there will be a loophole for EU countries that do not wish to be involved in the most sensitive transfers. When the Council has to take a decision on the matter, they will avoid blocking it through the principle of constructive abstention, while avoiding to endorse it³³.

Reluctant countries will also be able to use a financial loophole. The new European Facility is to be funded by contributions calculated on the basis of the gross national income of the Member States. Each EU country is therefore expected to finance the common pot of the EPF according to its capacities, on the basis of the same criteria. However, countries that do not wish to be involved in arms supplies may request that their contribution be redirected to other less sensitive activities supported by the EPF. Reluctant states will thus be able to publicly deny responsibility for possible lethal arms transfers and claim to have opposed them by asserting not to have contributed financially to them, whereas their overall contribution to the Facility will remain the same.

The amount from this complex arrangement, resulting from several months of negotiations, is expected to be rather modest due to the EPF budget ceiling. As discussed in paragraph 3.1, the new European Facility will continue to support African PSOs in the same way as the APF and will also cover the common costs of CSDP military missions. The remaining budget of approximately 300 million euros yearly could be used to establish new PSO missions, also outside Africa and/or the transfers of military equipment.

These figures should of course be taken with caution at this stage, but they demonstrate that although these are historic breakthroughs, they are still limited and that, ultimately, the provision of lethal equipment will only be one element in a much broader package of military assistance measures. In such a context, the Union is unlikely to transfer complex and expensive weapons systems as part of the defence equipment, but rather light or semi-heavy equipment (e.g. armoured vehicles) or even second-hand equipment. The weapons that might be transferred to the Union's partners do not necessarily have to be European of origin. The EU wants to be pragmatic and have all possible options on the table, bearing in mind that, given the limited budgets at its disposal and the usually high cost of Western equipment, a European solution might not necessarily be the most relevant. Moreover, some EU partner countries are equipped with defence assets from non-member countries. Sending them non-interoperable equipment would therefore be counter-productive.

³² SIPRI, "Le contrôle à l'exportation dans le domaine des armes légères et de petit calibre (ALPC) relevant de la législation sur le matériel de guerre", 2018 Report.

³³ Interviews with officials.

Finally, the agreement reached by the Member States hinges on another critical element, which is in fact a real promise: the commitment that the Union will set up a system for the analysis, monitoring and strict control of equipment and weapons supplied under its responsibility. This commitment is fundamental

for two reasons: it has helped the most reluctant countries to accept the EPF and it should enable the EU to demonstrate its commitment to best practices in defence materiel transfers. In such a sensitive area, the EU must indeed take a more careful and attentive stance than national powers.

5. Risk assessment and monitoring: an existential challenge for the Union

Generally speaking, EU countries that export arms do so on the basis of geopolitical and economic considerations. Economic considerations, in particular, have become predominant over time. Today, the survival of many European defence companies depends on their sales abroad. In this context, ethical considerations such as human rights, respect for the rule of law or the preservation of peace tend to take second place when national governments grant export licences (if this were not the case, they would not sell arms to the Gulf monarchies or to Egypt, for example). The EPF is intended to play a completely different role in this regard. While the EU should pursue its own security interests, it should not export arms on the basis of an economic interest. It is not the aim of the Union to support European industry against international competition. Its aim is simply to promote the stability of the Union's partners, because this is also in the Union's interest.

The EU must therefore act differently from its Member States, and it must do so with exemplary rigour. This is necessary because the Union must preserve its image as a benevolent power quite apart from other world powers and a valuable lever of political influence, including for the Member States. Therefore, the analysis, monitoring and control of transfers to be carried out under the EPF are bound to be of particular importance for the Union.

At this stage, the EU still remains discreet about how it intends to go about it. Logically, the Council decision to set up the new Facility is not very detailed on this issue, as it is primarily intended to establish a financial instrument for subsequent and detailed Council decisions. Therefore, it is not so much the legislative act establishing the EPF that will define the analysis and control modalities, but other documents of a more political nature that the Council will have to adopt to accompany this decision.

Two documents are currently under negotiation and appear to be particularly important. The first one

will identify the political priorities that the Council intends to adopt in the management of the Facility, while a second document will define a methodological framework for the risk reduction measures and controls that are supposed to accompany the supply of military equipment. In this framework, the EU intends among other things to strengthen conflict analysis, human rights and humanitarian law assessment systems. It will also set up monitoring, control and support activities to ensure that recipient countries respect their commitments .

Although these provisions are not yet known in detail, it is nevertheless possible to foresee four steps on which they should be based:

- 1.** Prior to any transfer, the Union will have to carry out a series of analyses on the recipient country or region (conflict analysis, human rights assessment, democratic situation, risk of misappropriation, etc.). Each decision in this area will be based on a thorough risk assessment, carried out autonomously by the EU services, in order to enable the Council and the High Representative to take a decision.
- 2.** If the evaluation by the Union's services is positive, the Union will then have to negotiate the terms of the military assistance with the recipient country, with a view to signing an agreement or convention. This agreement should define the commitments and conditions of use that the recipient country will undertake to respect, particularly with regard to human rights, humanitarian law and the fight against misappropriation. The agreement should also specify the post-transfer control and monitoring procedures that could be put in place.
- 3.** The third stage is not at European level but at national level. The EPF will not give the Union the power to grant licences authorising arms transfers. This competence will remain in the hands of the member countries. Once the EU decides to send

³⁴ . Interviews mit Beamten

defence equipment to a partner, it will have to identify a supplier. The country where the supplier is based will then have sovereign power to grant licences authorising transfers, in accordance with its legislation and in compliance with international standards³⁵. In particular, it will have to comply with the Council's Common Position on arms export controls and the Arms Trade Treaty. The supplier country will also have to apply international and European rules on the end-user certificate, like with any national export.

4. Once the equipment has been handed over, the EU will finally have to implement the controls defined upstream by the agreement required with the beneficiary country. If the terms of the agreement are not respected, the EU can take retaliatory measures such as ending military assistance, suspending development aid or even, in more extreme cases, adopting other restrictive measures.

The concrete tools for analysing and monitoring such activities remain to be clarified. In fact, the EU already has many instruments it could use for these purposes:

- It can count on the delegations that represent it in most countries of the world;
- It can benefit from the support of the embassies of the member countries;
- It has its own analysis and warning instruments (including the Intelligence and Situation Centre, commonly known as INTCEN);
- It maintains close relations with many NGOs in the field, which provide information and analysis and serve as relays in the field.

Above all, the EU has significant budgets, which means it can easily call on external expertise. It already does so by supporting NGOs or companies specialising in arms control. Since 2013, for example, the EU has

been co-funding, in partnership with Germany, a system called "iTrace", which provides viable data on the diversion of conventional arms, including small arms and ammunition³⁶. "iTrace" is based on field surveys conducted by experts, who examine weapons recovered by local authorities to identify their origin and route. The data collected is then entered into a database to provide policy-makers with a documented overview of diversions³⁷.

"iTrace" monitoring activities are in fact only concerned with illegally diverted weapons which local governments have been able to seize and which the "iTrace" programme specialists have had the opportunity to examine. They, therefore, provide only a fragmentary perspective of the diversions in question and do not address post-transfer controls. However, this and other such mechanisms can provide a basis on which the EU can build the expertise needed to manage its new competences in the field of arms transfers.

Monitoring activities will require that the EU enjoys a certain autonomy of action in relation to its Member States. Systems such as "iTrace" are, indeed, primarily mechanisms for providing information to the national chancelleries of the Union. European institutions (in this case the Council and the EEAS) also benefit from this information, but in a less detailed way. This is understandable considering that, until now, arms transfers have always been a competence under the strict and sole responsibility of the EU Member States. However, the EPF is intended to challenge this paradigm, at least partially. The political and moral responsibility for transfers made under the auspices (...and funding) of the EU will lie with both the provider country and the Union. The policy choices made in Brussels will now be at issue. This time around, the monitoring and control systems to be put in place will be expected to feed a flow of information mainly destined for the Union, so that it can act accordingly and autonomously.

³⁵ . DENECKERE M, "The uncharted path towards a European Peace Facility ", op. cit. , p. 9.

³⁶ . Council Decision (CFSP) 2019/2191 of 19 December 2019 in support of a global reporting mechanism on illicit conventional arms and their ammunition to reduce the risk of their diversion and illicit transfer ('iTrace IV')

³⁷ .Interview with an expert.

6. Conclusions

The debate on lethal arms transfers discussed in this paper may at first glance seem abstruse, even surreal. Why is there so much hesitation when the Union has already, for several years now, acquired important competences in the field of defence and crisis management?

We had to go back twenty years to understand this phenomenon. The path that led the Union to become a military player on the international scene has been complex and tortuous. It was never an easy path, and it is far from having been all laid out. The European Peace Facility is just one more step in this long journey. It is the latest piece of a puzzle still under construction. The new competences that the EPF devolves on the EU in the field of military assistance are, however, of particular importance. They represent a turning point in the history of the Union, given that they bring something fundamental that the EU had lacked until now: flexibility. The European Facility is intended to give the Union the wiggle room that has always been missing. Under the APF, the Union could achieve some things but not others. It was subject to strict and detailed regulations defining a series of constraints regardless of the context and reality on the ground. This meant that the EU was allowed to support certain aspects of African PSOs, but could not assist African

countries militarily through bilateral channels. It could buy petrol for MINUSCA vehicles but not acquire the said military vehicles. It could train Malian soldiers in marksmanship without being able to provide them with ammunition and individual weapons.

The EPF should now give the Union greater flexibility and manoeuvre space. This does not mean that the EU should now start transferring arms around the world. That is not the purpose. The aim is more simply to ensure that the Union is no longer automatically prevented from transferring lethal equipment because of an abstract rule of principle that failed to take the context, the reality, and the time into account.

The issue at stake with the new Facility is therefore not so much whether the Union should have the competence to transfer arms to its partners but rather to understand when it should do so and when it should refrain from doing so. The appropriateness of sending arms to a poor and conflict-ridden country remains an extremely delicate matter, on which the EU will have to be judged on a case-by-case basis. In this regard, it would be appropriate for Europeans to open up the debate to potential recipients of the EPF, especially in Africa.

ANNEX

The African Peace Facility in
practice

APF interventions from 2004 to 2019³⁸

Support to African PSOs

Since 2004, 14 African operations have been deployed in 19 different countries. In 2019, there were 7 PSOs supported by the APF:

- **AMISOM** (AU Mission in Somalia): contribution under the APF of **€2.1 billion** since the launch of the operation in 2007. These funds are massively used to cover troop allowances; salaries and allowances for the police component of the operation; running costs of the operation's offices; etc.
- **ECOMIB** (ECOWAS Mission in Guinea-Bissau): the EU has mobilised **€27.7 million** since 2015 to support the government in securing institutions and citizens, while providing humanitarian assistance where necessary.
- **MNJTf** (Multinational Joint Force against Boko Haram of the Lake Chad Basin Commission): In August 2016, an agreement between the EU and the AU was signed, covering a European funding of **44.7 million euros**. The main objective is to support the conduct of military operations through the provision of equipment and services to the Force, and to strengthen regional coordination.
- **CTSAMVM** (IGAD-led Transitional Ceasefire Monitoring and Verification Mechanism in Southern

Sudan): since 2015, European support under the APF amounts to **€19.1 million**. It could be considered as a civilian mission in the future.

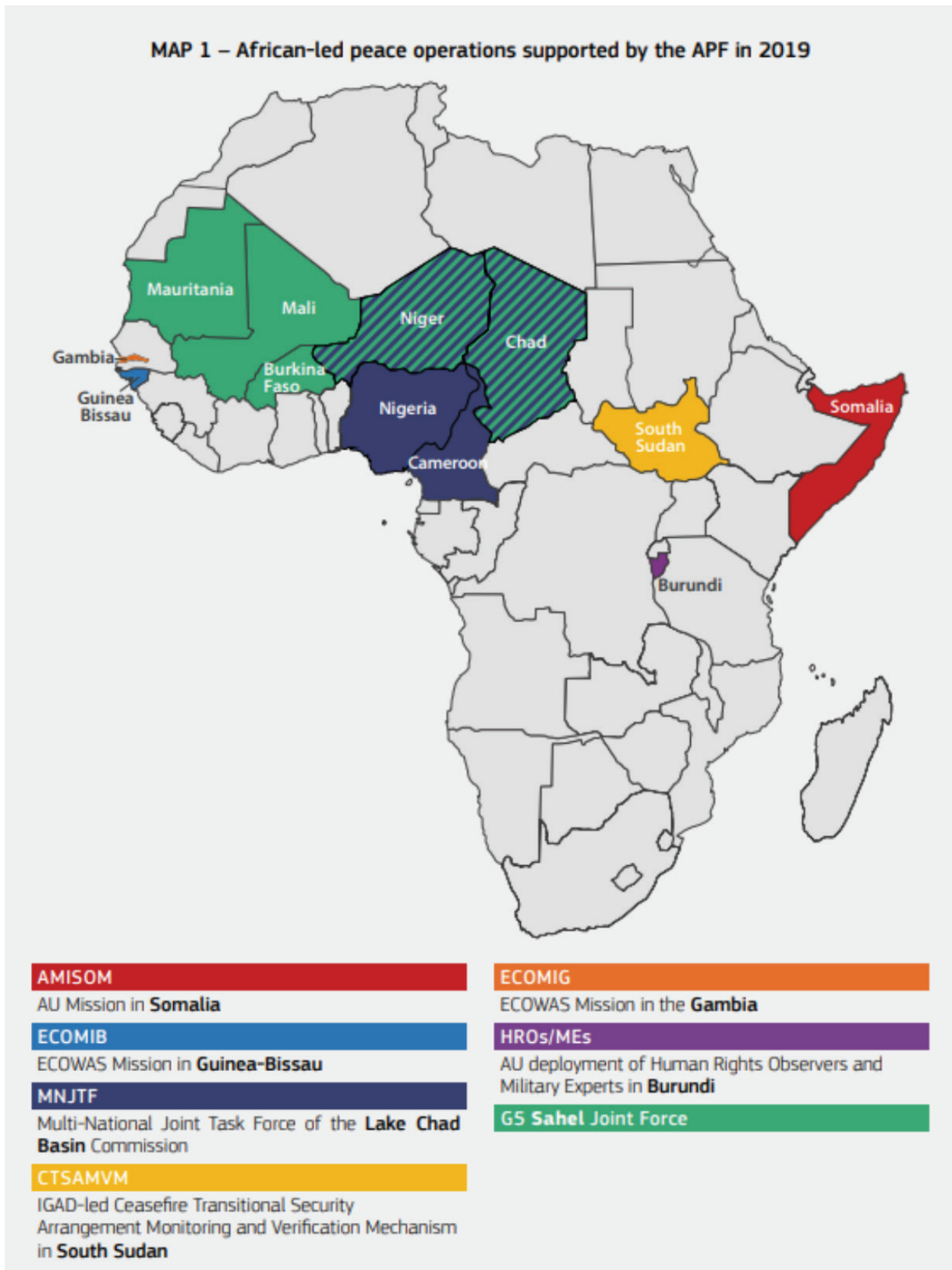
- **ECOMIG** (ECOWAS Mission in The Gambia): the EU has mobilised **€28 million** since 2017 to support ECOMIG. The main objectives are: securing the institutions, the President and members of the government; setting up joint patrols between ECOMIG forces and Gambian forces; training of Gambian forces.

- **ODH/EM** (Deployment by the AU of human rights observers and military experts in Burundi): over the period 2019-2020, the EU has contributed **€10 million** to the operation to cover salaries and allowances; support staff; etc. This mission could be considered as a civilian mission in the future.

- **G5 Sahel Joint Force**: Since 2017, the EU has mobilised more than **€115 million** to support the G5 Sahel Joint Force. European support includes the provision of equipment and services; the construction of infrastructure; the implementation of a framework for the respect of human rights and international humanitarian law; support to the existing G5 Sahel peace and security governance structure; etc.

³⁸European Commission, "Peace Facility for Africa - Annual Report 2019", pp. 13-25.

MAP 1 – African-led peace operations supported by the APF in 2019



Map published in the European Commission's 2019 Annual Report on APF

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