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Germany's Involvement in the Use of Armed Drones by the United States

**Submission for Germany's Universal Periodic Review (Third Cycle),
Thirtieth Session**

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INTRODUCTION

1. The European Center for Constitutional and Human Rights (ECCHR) is an independent, non-profit legal and educational organization dedicated to protecting human rights worldwide. It was founded in 2007 by a group of human rights lawyers in order to protect and enforce the rights guaranteed by the Universal Declaration of Human Rights, as well as other declarations of human rights and national constitutions, by legal means. ECCHR engages in innovative strategic litigation, using European, international, and national law to enforce human rights and to hold state and non-state actors accountable for grave human violations of human rights. ECCHR has consultative status at the United Nations Economic and Social Council.

2. In this submission ECCHR wishes to address Germany's involvement in the deployment of armed drones by the United States. Since Germany's last periodic review it has emerged that Germany facilitates US drone strikes by allowing the United States to use the Ramstein airbase in Rheinland-Pfalz for its armed drone operations. As confirmed by representatives from the US Embassy in Germany to the German government,¹ Ramstein serves as a key data relay station for communications between drones operating overseas and drone pilots based in the US. The base also plays a role in the planning, monitoring and assessment of air operations.²

3. This issue is linked to the recommendations on human rights and counter-terrorism accepted by Germany in the second cycle of UPR in October 2013:

Recommendation 124.198 - Ensure that the laws of the high level regulating the fight against terrorism are consistent with international standards of human rights protection (Mexico);

Recommendation 124.199 - Ensure that its counter-terrorism efforts are in compliance with international human rights obligations (Pakistan); and

Recommendation 124.200 - Adopt effective measures to protect human rights in executing counter-terrorism policy (Democratic People's Republic of Korea).

APPLICABLE LEGAL FRAMEWORK

4. Article 2 of the UN Charter provides that "The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles: (...) 4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations."

5. Article 3 of the Universal Declaration of Human Rights (UDHR) provides that "[e]veryone has the right to life, liberty and security of person."

¹ See German Parliament, Plenarprotokoll 18/205, 30 November 2016, p. 20452-20453, available at <http://dip21.bundestag.de/dip21/btp/18/18205.pdf>.

² Ibid.

6. Article 6 (1) of the International Convention on Civil and Political Rights (ICCPR) provides that “[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”

7. The Human Rights Committee General Comment 36 sets forth the guideline for article 6 of ICCPR that “States parties should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces.”

8. European Convention on Human Rights (ECHR), article 2 (1) of which states that “[e]veryone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.”

9. In the context of an armed conflict, International Humanitarian Law (IHL) governing use of force provides for the basic principle of distinction between combatants and civilians and the obligation “to not direct attacks against civilians not taking part in the conflict” (articles 48, 51(2) and 52(2) of Additional Protocol I to Geneva Conventions, rule 1 of Customary IHL); the principle of proportionality which requires that “Launching an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated, is prohibited.” (article 51(5)(b) Additional Protocol I and rule 14 of Customary IHL); and the duty to “take all feasible precautions to protect the civilian population and civilian objects under their control against the effects of attacks” (article 57, 58 and rule 22 of Customary IHL).

INCOMPATIBILITY WITH HUMAN RIGHTS STANDARDS AND INTERNATIONAL LAW OF GERMANY’S INVOLVEMENT IN THE DEPLOYMENT OF ARMED DRONES

10. US drones are currently deployed in operations in Afghanistan, Iraq, Libya, Syria, Somalia and Yemen.³ In permitting the Ramstein airbase to be used by the US in carrying out such drone strikes, Germany is in many cases complicit in violations of the right to life of victims. Many of these strikes take place outside of armed conflict, where the human rights framework applies and where targeted killings will almost always be unlawful.⁴

11. In those cases being carried out in the context of an armed conflict, the attacks in many cases violate the fundamental international humanitarian law principles of distinction, proportionality, and precautions against the effect of attacks. This is in part because, contrary to common claims about the “precision” or “surgical nature” of drone strikes, the technology

³ Current overview of US drone strikes available from [The Bureau of Investigative Journalism](#) and [Center for the Study of the Drone at Bard College](#).

⁴ See e.g. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, submitted in accordance with Assembly resolution 67/168, A/68/382, 13 September 2103, at pars. 32 - 35.

used for targeting by drone is generally not capable of establishing with sufficient certainty which individual is being targeted.⁵ Drone pilots can in many cases only observe the outlines of the people they are looking at and are therefore not capable of reliably distinguishing between civilians and combatants. These technical shortcomings are reflected in the number of civilian casualties of US drone strikes.⁶

12. The broad justifications put forward by the US for the use of lethal force in counterterrorist operations including drone strikes also contravene well-established international law principles concerning the prohibition of the use of force set out in article 2(4) of the UN Charter and a narrow understanding of states' right to self-defense as a way to limit the use of force and avoid resort to war. Beyond the illegality of certain drones strikes under international law, Germany's complicity with US drone strikes and its failure to insist on strict interpretations of these fundamental tenets of international law contribute to the erosion of fundamental tenets of international law.

RECOMMENDATIONS

13. Germany should end complicity in violating the right to life by countries using German territory for real-time data transfer to and from drones that serve as weapons platforms in unlawful killing operations.

14. Germany should end complicity in violating the right to life by sharing data that contributes to target analysis decisions for unlawful killing operations in third States by armed drones.

⁵ CorpWatch, "[Drone, Inc. - Marketing the Illusion of Precision Killing](#)", August 2017.

⁶ Various assessments indicate more than 4,000 dead, see M. Zenko, Do Not Believe the U.S. Government's Official Numbers on Drone Strike Civilian Casualties, Foreign Policy, 5 July 2016.