

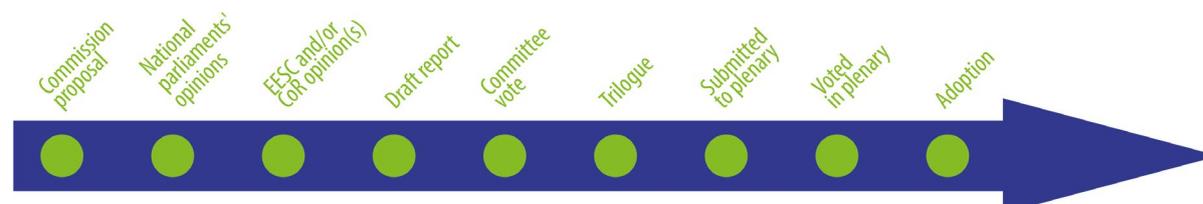
# European defence industry reinforcement through common procurement act (EDIRPA)

## OVERVIEW

The Commission put forward its proposal for a regulation establishing the European defence industry reinforcement through common procurement act (EDIRPA) on 19 July 2022. The key goals were to address the EU's most urgent and critical defence capability gaps and incentivise the EU Member States to procure defence products jointly.

On 27 June, the co-legislators reached a political agreement on EDIRPA. Parliament adopted the EDIRPA Regulation on 12 September and the Council followed suit on 9 October. The final act was signed on 18 October and it was published in the Official Journal of the EU on 26 October 2023. It entered into force the day following its publication.

<b>Proposal for a regulation of the European Parliament and of the Council on establishing the European defence industry reinforcement through common procurement act</b>		
<i>Committees responsible:</i>	Industry, Research and Energy (ITRE) and Foreign Affairs (AFET) (jointly under Rule 58)	COM(2022) 349 19.7.2022
<i>Rapporteurs:</i>	Michael Gahler (EPP, Germany) and Zdzisław Krasnodębski (ECR, Poland)	2022/0219(COD)
<i>Shadow rapporteurs:</i>	Sara Skyttedal (EPP, Sweden); Elena Yoncheva (S&D, Bulgaria); Carlos Zorrinho (S&D, Portugal); Dominique Riquet (Renew, France); Dragoş Tudorache (Renew, Romania); Jakop Dalunde (Greens/EFA, Sweden); Hannah Neumann (Greens/EFA, Germany); Anna Bonfrisco (ID, Italy); Thierry Mariani (ID, France); Marc Botenga (The Left, Belgium); Mick Wallace (The Left, Ireland)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Procedure completed.</i>	Regulation (EU) 2023/2418 <a href="#">OJL, 2023/2418, 26.10.2023</a>	



## Introduction

Russia's invasion of Ukraine has altered the geopolitical situation in Europe dramatically. The return of war to European soil has led EU capitals to step up ongoing talks on defence investment and capabilities. On 11 March 2022, the members of the European Council met at Versailles and [committed](#), among other things, to boost European defence capabilities, increase defence budgets, close shortfalls and capability objectives, enhance innovation and strengthen and develop the European defence industrial and technological base (EDTIB). Most significantly for the context of the EDIRPA, EU Heads of State or Government invited the Commission, in coordination with the European Defence Agency, to prepare an analysis of defence investment gaps by mid-May and propose any further initiative necessary to reinforce the EDTIB. On 18 May 2022, the Commission presented its [defence investment gap analysis](#), which identified investment, capability and industrial gaps. As one way to remedy these gaps, the Commission proposed the creation of a short-term joint defence procurement instrument worth €500 million. Subsequently, on 19 July 2022, the Commission put forward its proposal for a regulation on establishing the European defence industry reinforcement through common procurement act ([EDIRPA](#)).

## Existing situation

The EU defence landscape has long been characterised by severe under-investment and fragmentation. The 22 EU Member States that are also North Atlantic Treaty Organization (NATO) members (23 once Sweden joins) have long been guided by the 2 % of gross domestic product (GDP) defence spending commitment under NATO that was [formalised](#) at the 2014 Wales Summit. EU Member States participating in permanent structured cooperation (PESCO – a Treaty-based framework to deepen defence cooperation amongst EU Member States) (all except Malta) have also agreed to 'regularly increase defence budgets in real terms' under their PESCO commitments. Despite these commitments, EU Member States have for years severely [under-invested](#) in their defence. Meanwhile, strategic competitors such as Russia and China have increased their defence budgets by almost 300 % and 600 % respectively over the last decade, compared to an approximate 20 % increase collectively by EU Member States in the same period. [According](#) to the European Commission, if all Member States had spent 2 % of their GDP on defence from 2006 until 2020, this would have resulted in an additional €1.1 trillion for defence.

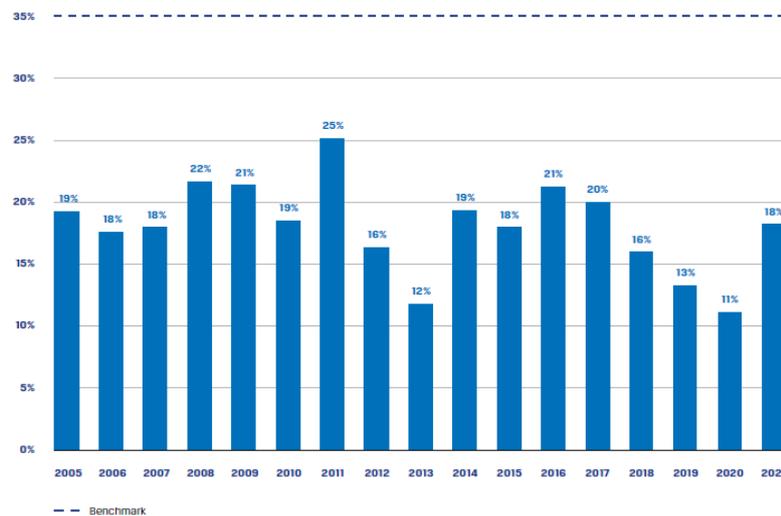
EU defence is suffering not only from severe under-investment but also from perennial fragmentation. The latest coordinated annual review on defence (CARD) [report](#), adopted in November 2022, gives an overview of the EU defence landscape, highlighting collaborative opportunities and aiming to increase coherence over time. It underlines that the EU defence landscape remains fragmented, with cooperation remaining the 'exception rather than the norm'. Worryingly, collaborative defence investment – investment in defence programmes conducted in cooperation – has recently gone down, with only 18 % of all investment done in a collaborative way. This stood at 19 % during the first CARD cycle (2019-2020).

On a more positive note, following Russia's invasion of Ukraine, the EU Member States have announced significant increases in their defence budgets, [amounting](#) to an additional €200 billion over the coming years. The combined annual defence budgets of EU Member States are [expected](#) to grow to 290 billion by 2025 (if one adds new EDA member Denmark's projected defence budget to the EDA data from November 2022; Denmark [joined](#) the EDA in March 2023). In 2021, these budgets were at [€214 billion](#). The CARD report states that if participating Member States 'adhere to the announced increase in expenditure, after 2023 they will have possibly recovered from the underspending of the previous decade'. This presents both opportunities and challenges. On the one hand, there is a much larger budget available to invest in defence. On the other, given the urgency of filling critical capability gaps, there is a real risk that participating Member States will prioritise off-the-shelf purchases from third countries – as has already been the case with [Poland](#)

and [Germany](#) for instance – over long-term investments in European collaborative capability projects. This could undermine the EDTIB and result in increased dependencies on third countries.

More specifically, when it comes to joint defence acquisitions, collaborative defence procurement does not seem high on the list of priorities for Member States. European Defence Agency [data](#) from 2020 show that Member States spent only €4.1 billion on collaborative equipment procurement, which is 11 % of total defence equipment procurement. This percentage was 13 % in 2019 (see Figure 1). This falls far short of the 35 % benchmark agreed within the EDA framework and the related PESCO commitment. Cooperation, however, would bring myriad [advantages](#), such as cost efficiency, increased interoperability and reduced maintenance costs. On a positive note, European Defence Agency data from 2021 show that Member States [allocated](#) €7.9 billion (18 % of total defence equipment procurement spending) to collaborative defence procurement projects in 2021, which is almost double the 2020 figure. However, in order to reach the 35 % benchmark, Member States would have to increase their spending on joint procurement by another €7 billion, according to the European Defence Agency.

Figure 1 – European collaborative defence equipment procurement as a percentage of total defence equipment procurement



Source: [European Defence Agency](#).

Defence procurement legislation is also a highly fragmented area. Defence procurement contracts are subject to a vast array of different national procurement regimes in different EU Member States. These different regimes have discouraged cross-border competition and, as a result, experts [find](#) that there has never been a 'genuine pan-European defence procurement market, but rather ... [27 markets] fenced off with regulatory barriers to entry aimed at protecting national defence industries'. Indeed, Article 346 of the Treaty on the Functioning of the European Union (TFEU), which allows EU Member States to derogate from EU rules and adopt extraordinary measures in the trade and production of munitions, arms and war material (see box), has been seen as a carte blanche by many Member States to circumvent EU procurement rules.

#### Synergies between defence, space and security industries

The [action plan](#) on synergies between defence, space and security industries, adopted in February 2021, is important when it comes to making the most of the EU funds available. It seeks to increase complementarity between relevant EU programmes such as [Horizon Europe](#) and the European Defence Fund, to profit from the disruptive potential of technologies at the intersection between space, defence and civil uses. The first progress report on the implementation of the action plan on synergies between civil, defence and space industries was [adopted](#) on 10 November 2022. It highlighted that 6 out of 11 actions in the action plan would be completed by the end of 2022.

To address the specific nature of defence procurement and build an open and competitive internal market for defence products, the EU has already taken significant steps to regulate defence procurement at EU level. In 2009, the [Directive](#) on defence and sensitive security procurement, which sets out European rules for the procurement of munitions, arms and war material, entered into force. However, it has had limited success. As a 2016 Commission [evaluation report](#) admits, most procurement contracts, especially for 'high-value, strategic, complex defence systems', are still awarded without an EU-wide tender. Member States continue to invoke [Article 346 TFEU](#) to circumvent procurement rules. The evaluation notes, however, that while the directive is fit for purpose, implementation is lacking. This finding is also backed up by an EPRS [study](#). A further Directive on intra-EU transfers of defence-related products was adopted (also in 2009) to simplify intra-EU defence-related product transfers. An expert from the Centre for European Reform think-tank therefore [finds](#) that 'years after the Commission first tried to regulate defence procurement with the 2009 "defence procurement directive", there is still no single European defence market'.

## Parliament's starting position

In its [resolution](#) of 21 November 2013, the European Parliament underlined that progress on consolidating the EDTIB was essential, highlighting that an EU industrial defence policy should aim to enhance capabilities by strengthening Europe's defence industry and supporting research and technology cooperation. In a [resolution](#) of 21 May 2015, MEPs urged the European Council to take practical steps to overcome the fragmentation of the European defence market and to put forward specific guidelines for that market. In its [resolution](#) of 22 November 2016 on establishing a European defence union, Parliament again stressed the importance of cooperation in defence, especially through measures to strengthen defence industrial cooperation, and called on the Commission to take measures to support a strong EDTIB.

The European Parliament, as co-legislator, [adopted](#) the Regulation on establishing a European Defence Fund (EDF) on 29 April 2021. In its [resolution](#) of 25 March 2021 on 'procurement in the fields of defence and security and the transfer of defence related products: implementation of relevant directives', Parliament expressed disappointment at the continued fragmentation of the EU's internal market for defence products. It underlined the need to improve the functioning of the internal market for defence products through better implementation and enforcement of the two defence procurement directives. It also called on Member States to 'demonstrate political will in increasing intra-EU defence acquisition ... and make use of common defence R&D and acquisitions in order to boost interoperability between their militaries'.

In its [recommendation](#) of 8 June 2022 on the EU's foreign, security and defence policy after the launch of Russia's war of aggression against Ukraine, Parliament urged the High Representative and the Council to launch a discussion on establishing another off-budget financial facility, which would also address joint procurement. Parliament proposed that the EDF should be complemented by a joint procurement taskforce and a joint procurement mechanism. Furthermore, it called on the High Representative and the Council to move forward quickly with the joint Commission-EEAS plan for joint EU procurement of military systems.

In its [resolution](#) of 18 January 2023 on the implementation of the common security and defence policy – annual report 2022, Parliament welcomed the new EU defence initiatives, including EDIRPA. MEPs also welcome the announced presentation of the European defence investment programme (EDIP), after the finalisation of EDIPRA in 2023. They highlight that these initiatives constitute a major step towards a European defence union. MEPs call for increased ambition in joint procurement by Member States and in defence investment expenditure. Parliament furthermore urges Member States to commit to 'a significant increase' for joint EU procurement mechanisms, including EDIRPA and the EDIP. It stresses that the rules applicable to EDIRPA should be similar to those for the EDF and underlines that EDIRPA is an essential tool for efficient public spending. Furthermore, MEPs highlight the need for more active involvement of the European Parliament in common security and defence policy (CSDP) and defence industrial decision making, including on EDIRPA, and note that

the forthcoming negotiations on EDIRPA should be used to implement 'adequate and meaningful parliamentary scrutiny rights via delegated acts for work programmes for the main defence industrial programmes'.

## Preparation of the proposal

There is no specific prior legislation covering joint EU procurement of defence material with funds from the common budget. There are some related files, however. For instance, the [European Peace Facility](#) – an off-budget fund of, now, €12 billion adopted in March 2021 – allows the procurement of military material, inter alia to support partner countries (e.g. Ukraine), in line with the criteria outlined in the [Council Decision establishing the European Peace Facility](#) (see, for instance, the three-track ammunition proposal described below). The [European Defence Fund](#) is also supposed to enhance the competitiveness of the EDTIB by incentivising joint research and development of defence equipment. It uses one of the legal bases of EDIRPA (Article 173 TFEU – support for the competitiveness of the European industry), but also refers to Articles 182, 183 and 188 TFEU. The fund has been operational since January 2021 and can be used for pre-commercial procurement. '[Pre-commercial procurement](#)' means the procurement of research and development services involving risk-benefit sharing under market conditions, and competitive development in phases, where there is a clear separation of the research and development services procured from the deployment of commercial volumes of end-products'. Furthermore, as an eligibility criterion for financial support for development actions, the European Defence Fund Regulation requires the consortium in question to demonstrate that they intend to procure the final product or use the technology in a coordinated manner. According to the Commission, the EDIRPA will complement the European Defence Fund and is consistent with it.

[According](#) to the Commission, no impact assessment was attached to the proposal because of the urgency of the matter.

Conclusions adopted by the European Council, together with a joint communication (see below), paved the way for this proposal. At the Versailles Summit on 10 and 11 May 2022, the EU Heads of State or Government [agreed](#) to 'develop further incentives to stimulate Member States' collaborative investments in ... joint procurement of defence capabilities'. The European Council also invited 'the Commission, in coordination with the European Defence Agency, to put forward an analysis of the defence investment gaps by mid-May and to propose any further initiative necessary to strengthen the European defence industrial and technological base'. This was subsequently reiterated in the [Strategic Compass](#), adopted in March 2022, which also includes additional elements from the Commission [contribution](#) to European defence of 15 February 2022. The compass posits that the Commission will work on a proposal for a VAT waiver to support joint procurement and ownership of defence capabilities developed in a collaborative way and work on proposals for new financing solutions to encourage Member States' joint procurement.

On 18 May 2022, the Commission and the High Representative presented a [joint communication](#) on the defence investment gaps analysis and way forward. The communication [identifies](#) gaps in three areas: industry, investment and capabilities. These gaps have been exacerbated by substantial [deliveries](#) of military equipment to Ukraine by EU Member States. One of the Commission and High Representative's proposals to remedy these gaps is the proposed EDIRPA regulation. According to the communication, its [purpose](#) is to help Member States 'fill the most urgent and critical gaps in a collaborative way, based on the work of the Task Force' (see below).

At the European Council meeting on 30 and 31 May 2022, EU Heads of State or Government, taking into account the defence investment gap analysis, [invited](#) the Council to examine 'as a matter of urgency, measures to coordinate very short-term defence procurement needs to support joint procurement to replenish stocks, notably in light of support provided to Ukraine, as well as a short-term tool to reinforce European defence industrial capabilities through voluntary joint procurement'.

As recommended in the defence investment gap analysis, the Commission and the High Representative/Head of the European Defence Agency, together with the Member States, established a defence joint procurement task force, which supports coordination and assistance in closing the very short-term procurement needs. On 14 October 2022, the defence joint procurement task force [presented](#) its work and interim results. Having received the Member States' responses, the task force defined areas of common interest for possible joint procurement in different areas. These areas were: i) medical equipment and supplies; ii) CBRN individual protection equipment; iii) anti-tank systems and missiles; iv) soldiers' equipment and radios; v) ammunition, explosives, mortars and multiple launch rocket systems (MLRS); vi) missiles, air defence, man portable air defence systems (MANPADS) and bombs; and vii) small arms. As a next step, the task force engaged with the European defence industry and, over a year, produced a [mapping](#) of the supply capacities of the European defence industry in order to make sure that the identified demand can be met. This [should](#) also 'better inform the use of financial support and regulatory measures', which is especially important for EDIRPA and the Act in Support of Ammunition Production.

Based on the EDIRPA proposal, the Commission was scheduled to propose a European defence investment programme (EDIP) regulation in the third quarter of 2022, whose aim would be to establish the framework for European defence capability consortia (EDCC) through which Member States would jointly procure defence capabilities, developed in a collaborative way, for use by participants. This proposal has been postponed to a later date.

On 3 May 2023, the Commission put forward a proposal – the Act in Support of Ammunition Production ([ASAP](#)) – which complements the one on EDIRPA and uses Article 173 TFEU as one of its legal bases as well. ASAP will facilitate the ramping-up of the EU's production capacity of ammunition and missiles, to ensure that the European defence industry can better support Ukraine and the Member States. On 20 March 2023, the Council recognised the specific urgent need for ground-to-ground and artillery ammunition, and missiles, in light of the Russian war on Ukraine. It agreed on a [three-track proposal](#) on ammunition (delivery from existing stocks; joint procurement from industry; increasing production), which was [endorsed](#) by the European Council on 23 March 2023. Its aim is to, 'in particular, speed up the delivery and joint procurement aiming at one million rounds of artillery ammunition for Ukraine in a joint effort within the next twelve months'. On 13 April 2023, the Council [adopted](#) a €1 billion assistance measure under the European Peace Facility (EPF) – an off-budget fund of €12 billion – to support the Ukrainian army. It will enable the EU to reimburse Member States for ammunition donated to Ukraine from their own existing stocks (Track 1). Member States have [provided](#) 220 000 artillery rounds of different calibres, and 1 300 missiles as of 23 May. On 5 May 2023, the Council [adopted](#) another €1 billion assistance measure (Track 2) under the EPF, to jointly procure ammunition and missiles from the European defence industry and deliver them to Ukraine. Regarding Track 2, on 20 March 2023, EU Member States and Norway (24 participants as of 1 May 2023) [signed](#) a European Defence Agency project arrangement for the collaborative procurement of ammunition. In parallel, complementary projects, led by France and Germany are also [ongoing](#). Track 3 aims at ramping up production capacity in the European defence industry. This effect is supposed to be achieved through the future ASAP, which directly responds to the Council's call for an urgent delivery of ammunition, and, if requested, also of missiles to Ukraine and to help Member States refill their supplies. The main aims of the proposed ASAP are:

- to support the reinforcement of the EU's industrial production capacities for relevant defence products (ammunition and missiles);
- to create a mechanism to map, monitor and better envisage potential bottlenecks in the supply chains;
- to introduce a temporary regulatory framework to address the shortage in ammunition.

The Commission [proposes](#) that ASAP should have a budget of €500 million, which would come 'from the redeployment of different instruments, in particular the European Defence Fund and the

future EDIRPA'. The Commission [proposes](#) that €240 000 (€157 000 in 2023 and 83 000 in 2024) of the EDIRPA budget be allocated to the ASAP.

## The changes the proposal would bring

On 19 July 2022, the Commission adopted a [proposal for a regulation](#) establishing the European defence industry reinforcement through common procurement act (EDIRPA) for 2022 to 2024. It is an entirely new proposal and would for the first time establish a joint EU defence procurement fund.

Whereas [Article 41\(2\)](#) of the Treaty on European Union [bans](#) the use of the EU common budget for 'expenditure arising from operations having military or defence implications and cases where the Council acting unanimously decides otherwise', the legal basis for the EDIRPA is found in Article 173 TFEU (support for the competitiveness of the European industry, see box). The proposal seeks to enhance the competitiveness of the EDTIB by supporting cooperation between Member States in the field of joint defence procurement.

### [Article 173](#) of the Treaty on the Functioning of the EU

*1. The Union and the Member States shall ensure that the conditions necessary for the competitiveness of the Union's industry exist.*

*For that purpose, in accordance with a system of open and competitive markets, their action shall be aimed at:*

- speeding up the adjustment of industry to structural changes,*
- encouraging an environment favourable to initiative and to the development of undertakings throughout the Union, particularly small and medium-sized undertakings,*
- encouraging an environment favourable to cooperation between undertakings,*
- fostering better exploitation of the industrial potential of policies of innovation, research and technological development.*

*3. The Union shall contribute to the achievement of the objectives set out in paragraph 1 through the policies and activities it pursues under other provisions of the Treaties. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, may decide on specific measures in support of action taken in the Member States to achieve the objectives set out in paragraph 1, excluding any harmonisation of the laws and regulations of the Member States.*

The new instrument will seek to address 'the most urgent and critical defence products needs, especially those revealed or exacerbated by the response to the Russian aggression against Ukraine' (Article 7(1)(a)). The EDIRPA does not prescribe which items should be procured jointly. This decision remains with the Member States.

The Commission proposes to earmark €500 million of the EU budget in current prices for the 2022-2024 period for this purpose. The instrument is intended to encourage Member States to procure defence products jointly. The funds can be used, for instance, for technical and administrative costs and are supposed to offset the complexity and risks associated with joint procurement. Furthermore, the instrument should ensure greater value for money, enhanced interoperability and easier access, in particular for the most exposed EU Member States, to obtain what they need, by reducing competition among Member States. The instrument should also enable the EDTIB to adapt and increase its manufacturing capacities to produce the necessary defence products.

In order to be eligible, actions must be carried out by a consortium of at least three Member States, involve new cooperation or an extension of existing cooperation to new Member States, and respect procurement procedures reflecting the involvement of the EDTIB. In order to benefit from funds under this instrument, common procurement contracts will need to be placed with legal entities established in the EU or in associated countries (members of the European Free Trade Association that are members of the European Economic Area)<sup>1</sup> and that are not subject to control by non-

associated third countries or by non-associated third-country entities. There are exceptions under certain conditions.

The main objectives of the EDIRPA are to:

- enhance the efficiency and competitiveness of the EDTIB, in particular by speeding up adaptation to structural changes and ramping up manufacturing capacities; and
- foster Member State cooperation in defence procurement, which enhances interoperability, ensures greater value for money, avoids fragmentation and facilitates access to defence products, especially for those Member States most exposed to the new security environment following Russia's war on Ukraine.

The EDIRPA will take into account the work of the defence joint procurement task force (see above).

The proposal also seeks to complement existing EU programmes in the policy area, such as the European Defence Fund ([EDF](#)). While the EDF incentivises cooperation on research and development between companies in the defence industry, the EDIRPA incentivises cooperation on common defence procurement. The EDIRPA is also designed to complement EU defence initiatives, such as permanent structured cooperation ([PESCO](#)) and the coordinated annual review on defence ([CARD](#)) and is meant to complement the implementation of the Strategic Compass.

## Advisory committees

The European Economic and Social Committee (EESC) appointed Maurizio Mensi (Diversity Europe – Group III, Italy) as rapporteur and Jan Pie (CCMI delegate, Sweden) as co-rapporteur. The EESC [opinion](#) on the EDIRPA was adopted on 21 September 2022. The EESC welcomed the EDIRPA proposal and supported its objectives. While in general it supported the EDIRPA's underlying approach to incentivising joint procurement by means of direct financial support from the EU budget, it doubted whether €500 million would be 'sufficient to make a difference in Member States' procurement decisions'. Indeed, the EESC saw the proposal as 'too limited in its approach, scope and funding to make a real difference for the EDTIB'. For the short term, it saw the EDIRPA as capable of making a useful contribution to managing the current peak in demand for urgent off-the-shelf equipment. For the longer term, the EESC argued that the EDIRPA should not be considered as precursor for a future EDIP, as it saw substantial weaknesses in it as an industrial policy instrument. The EESC also called for the EU Member States to cooperate closely with the defence joint procurement task force.

## National parliaments

The deadline for the submission of [reasoned opinions](#) on grounds of subsidiarity was 17 October 2022. The Swedish Parliament [submitted](#) a reasoned opinion in which it noted that it supports closer cooperation in the EU in the area of defence, and highlighted its increased importance following the Russian invasion of Ukraine. It underlined that it supported the Commission's bid to strengthen the EDTIB. It noted however that the 'proposal lacks an impact assessment to ensure that the Commission is not given greater influence over decisions regarding defence policy which were previously taken at a national level and that this could result in the intended objectives not being achieved'. It criticised the fact that the proposed legislation provides the Commission 'with the possibility to control the distribution of resources based on criteria which are still not sufficiently transparent and measurable'. It noted that in order to decide whether defence equipment is to be procured nationally or at the EU level, defence policy, information security requirements and security of supply considerations must be taken into account. It concluded that the proposed regulation was 'not compatible with the principle of subsidiarity, since these matters are primarily national competences'. In contrast to this stance, the Spanish Parliament submitted an [opinion](#) stating that the EDIRPA is consistent with the principle of subsidiarity.

The Romanian Senate also contributed an [opinion](#) on the EDIRPA, in which it highlighted that defence acquisitions must remain the exclusive competence of the Member States, and underlined that defence investment expenses should be excluded from the calculation of the budget deficit. It also called for a clearer definition of the role of the European Defence Agency and for a 'gradual approach' when it comes to the implementation of EU initiatives on joint defence procurement.

## Stakeholder views<sup>2</sup>

The Aerospace, Security and Defence Industries Association of Europe (ASD) stated in a [position paper](#) that it supports the short-term instrument for EU joint procurement of defence capabilities (later named the EDIRPA) as a 'good first contribution to filling the most urgent and critical gaps'. It also supports fast-track adoption of the regulation as an important means of assistance for Member States to replenish their stockpiles and equipment.

The American Chamber of Commerce representation in the EU (AmCham EU) published a [position paper](#) on the EDIRPA, welcoming the initiative but noting that, if the Commission proposal is accepted as is, the EDIRPA risks failing to be fit for purpose. AmCham EU is highly critical of the proposed restrictions under the EDIRPA (contractors and subcontractors using funds under the EDIRPA will have to be established in the EU and not subject to restrictions by a non-associated third country. In certain cases, derogations from this requirement would be possible). It proposes that these parts of the regulation be changed, in order not to disadvantage the US defence industry.

In a November 2022 column in [Euractiv](#), several defence experts, including Daniel Fiott of the Centre for Security, Diplomacy and Strategy in Brussels, perceive the EDIRPA as a step in the right direction. They note, however, that the proposed €500 million for the EDIRPA is a 'meagre incentive' in comparison to the increases announced in the defence budgets of EU Member States, amounting to €200 billion in the coming years. They underline that the EU 'must do more and faster' to ensure that its initiatives do not become irrelevant. They also caution that there is a real risk that spending on off-the-shelf equipment will weaken the capacity to fund future collaborative defence programmes and will increase dependencies on non-European equipment.

Pierre Haroche of Queen Mary University in London also [highlights](#) the small amount of funding envisaged for the EDIRPA, which he calls 'a symbolic sum compared to what is at stake'. He calls for the EU to establish an EU wartime investment plan to cover support for Ukraine and to fund joint procurement. This investment plan should be funded by all Member States, based on their respective GDP. He proposes a sum of €10 billion.

Max Bergmann, Pierre Morcos, Colin Wall and Sean Monaghan of the Centre for International and Security Studies also [underline](#) that €500 million for joint procurement is a good start, but 'clearly insufficient to answer the immense investment needs'. They suggest that the EU could borrow on the capital markets to fulfil the investment needs, in the same way as it did for the Next Generation EU recovery plan.

Tim Lawrenson of the International Institute for Strategic Studies [highlights](#) that there is a real threat that the new EU instruments (including the EDIRPA) will be 'too late and have funding levels that are too small to seriously alter the thinking of EU Member State governments'. He also has issues with the Commission proposal's rules excluding products containing technologies that are subject to third-country export controls. He believes that this will cause significant 'push-back' from Member States during the negotiations.

## Legislative process

On 19 July 2022, the Commission adopted its proposal for a European defence industry reinforcement through common procurement act (EDIRPA).

The file was initially assigned to the Committee on Industry, Research and Energy (ITRE), but in the end it was decided that ITRE would share responsibility with the Committee on Foreign Affairs

(AFET) / Subcommittee on Security and Defence (SEDE) under the joint committee procedure ([Rule 58](#) of Parliament's Rules of Procedure). The Committee on Internal Market and Consumer Protection (IMCO) is associated under [Rule 57](#), with exclusive competence for issues relating to procurement and the single market (Articles 7-10 of the proposal), and the Committees on Budgets (BUDG) and Budgetary Control (CONT) will each contribute an opinion under [Rule 56](#) of Parliament's Rules of Procedure.

Michael Gahler (EPP, Germany) and Zdzisław Krasnodębski (ECR, Poland) were appointed as rapporteurs for the EDIRPA file on 8 December 2022.

On 1 December 2022, the Council [agreed](#) a general approach on the proposed EDIRPA regulation. One of the main points agreed was that the 'cost of components originating in non-associated third countries shall not exceed 30 % of the value of the end product'. This ensures that the funds will not be used exclusively for off-the-shelf products from third countries to the detriment of the EDTIB. At the same time, the Council position takes into account existing transatlantic defence industrial cooperation, which will be important in addressing short-term pressing capability shortfalls. In its general approach, the Council confirmed that €500 million from the EU budget should be set aside for the 2022-2024 (now until 2025) period and that actions must be carried out by at least three Member States.

In its [conclusions](#) of 15 December 2022, the European Council called on the European Parliament and the Council to adopt the EDIRPA swiftly, and urges the Commission and the EDA to intensify their efforts on identifying, facilitating and coordinating joint procurement. Furthermore, the European Council called on the Commission to 'rapidly present' a proposal for a European Defence Investment Programme.

On 19 December 2022, IMCO presented its [draft opinion](#). On 18 January 2023, ITRE and SEDE/AFET published the rapporteurs' [draft report](#). The BUDG committee published its [draft opinion](#) on 24 January 2023 and the CONT committee its draft [opinion](#) on 22 March 2023. The draft report was discussed in committee on 6 February. The deadline for tabling amendments was 8 February. A total of 333 [amendments](#) were submitted. The exchange of views in committee took place on 20 March 2023, and the joint ITRE/AFET committee adopted its [report](#) on 25 April 2023 (87 for and 8 against, with 25 abstentions). The same day, the joint committee approved the mandate to enter into interinstitutional negotiations. The mandate was confirmed in plenary on 10 May.

The main points of the report are:

- increasing the EDIRPA budget to €1 billion (the Council position and Commission proposal called for €500 million). The initial proposal of €1.5 billion, made in the draft report, did not garner enough support and was thus lowered to €1 billion. (The Commission proposes that €240 million (€157 million in 2023 and €83 million in 2024) of the EDIRPA budget be allocated to the ASAP);
- giving priority to those Member States that are in the direct vicinity of the war zone, not least because they need to prepare themselves 'for an escalation of the armed conflict to their own territories'. The EDIRPA should therefore 'provide for incentives for the participation of those of those Member States that significantly depleted their own stockpiles by granting higher Union contribution to actions where at least two such Member States participate';
- opening up of the EDIRPA to EU candidate countries: it should be possible for 'the procurement agent, following unanimous approval of the agreement's participating Member States 'to invite and enter into an agreement for procuring additional quantities of the defence product subject to the common procurement with those third countries which are candidates for accession to the Union and whose territory is in immediate proximity or affected by the war on Ukrainian territory and whose territory is occupied by forces supported by the Russian Federation, such as Ukraine and Moldova';

- setting caps for the EU's financial contribution to each action, specifying that this contribution would not exceed 15 % of the total EDIRPA budget and would not be more than 20 % of the estimated value of the procurement contract;
- there would be a higher contribution in cases where at least two Member States have a common border with Russia or with countries that have been the target of Russian aggression, or if a relevant EU candidate country (see above) is a recipient of additional quantities in the procurement action, or at least 15 % of the estimated value of the common procurement contract is allocated to SMEs and/or mid-caps, as contractors or subcontractors. This contribution may exceed 15 % but not more than 20 % of the EDIRPA budget and would be capped at 25 % of the estimated value of the procurement contract;
- adding a detailed list of funding priorities for defence products, including, inter alia, air defence specific effectors and all types of ammunition;
- emphasising the necessity of coherence with the objectives and priorities of NATO, which 'remains the foundation of the collective defence of its members';
- rather than by means of an implementing act (as the Commission proposed), the report notes that the work programme should be established by means of a delegated act, which reinforces Parliament's role in the process.

On 27 June 2023, the co-legislators [reached](#) a political agreement on EDIRPA. The agreed text contains the following elements:

- The instrument will end in December 2025 rather than 2024.
- Joint purchases must involve consortia of at least three Member States.
- A budget of €300 million (rather than the €1 billion called for by the Parliament or the €500 million proposed by the Commission and agreed in the Council position). The proposed Act in support of ammunition production (ASAP) took some money originally proposed for EDIRPA, which cut down the available funds for EDIRPA to €260 million. The extra €40 million will be taken from 2025 EU budget margins.
- Eligible contractors must be established in and have their executive management structures in the EU or an associated country (Iceland, Liechtenstein or Norway). These must not be controlled by a non-associated third country. There is the possibility of a derogation from the latter subject to strict guarantees from Member States.
- Contractors must also use facilities and resources located in the EU or an associated third country, with an exception for when EU producers do not have relevant infrastructure in the EU.
- EDIRPA funds must not be used to purchase components from 'countries that do not respect good-neighbourly relations'.
- The cost of components originating in non-associated third countries must not exceed 35 % of the value of the end product.
- The EU will contribute a maximum of 20 % of the estimated value of joint procurement actions. An absolute cap of 15 % (of the total EDIRPA funds) 'will allow for an equal distribution of available funds among member states and across funding priorities'.
- There must be no restrictions by non-associated third countries placed on the defence products procured by Member States, with exceptions for urgent and critical defence products (which must have already been in use before 24 February 2022).
- A bonus of 5 % each will be added when SMEs or mid-caps are part of the manufacturing process of the equipment purchased. In line with the European Parliament position, a bonus will also be added if Ukraine or Moldova benefit directly from a procurement action. The European Parliament's suggested bonus for countries close to Russia or Ukraine was rejected.
- The work programme will be established by means of an implementing act (the European Parliament lost the argument on changing this to a delegated act).

The Permanent Representatives Committee confirmed the provisional [agreement](#) on 5 July 2023. The AFET/ITRE joint committee approved the provisional agreement on 17 July 2023.

In its conclusions of 29 and 30 June 2023, the European Council recalled the need to strengthen the European defence technological and industrial base. It also welcomed the political agreement reached on EDIRPA, called for work to be taken forward on the three tracks on the delivery and joint procurement of ammunition and missiles (described above), especially swift adoption of ASAP. Moreover it called on the Commission to put forward a proposal for an EDIP.

On 6 October 2023 – during the informal European Council meeting in Granada – EU Heads of State or Government [agreed](#) that by building on the Strategic Compass, they will strengthen EU defence readiness and invest in capabilities by developing the European defence industrial and technological base.

Parliament [granted](#) formal approval to EDIRPA on 12 September 2023. It was adopted by 530 votes to 66, with 32 abstentions. The Council gave its [approval](#) for EDIRPA on 9 October 2023. The final act was signed on 18 October and it was [published](#) in the Official Journal of the EU on 26 October 2023. It entered into force the day following its publication.

## EUROPEAN PARLIAMENT SUPPORTING ANALYSIS

Clapp S., [Member States' defence investment and capability gaps](#), EPRS, European Parliament, May 2022.

Karaboytcheva M., [European Defence Fund: Multiannual financial framework 2021-2027](#), EPRS, European Parliament, July 2021.

Ioannides I., [EU Defence Package: Defence Procurement and Intra-Community Transfers Directives](#), EPRS, European Parliament, October 2020.

## OTHER SOURCES

European Parliament, [European Defence Industry Reinforcement through Common Procurement Act](#), Legislative Observatory (OeIL).

## ENDNOTES

- <sup>1</sup> The European Economic Area (EEA) includes the EU Member States and the three EEA EFTA states (Iceland, Liechtenstein and Norway).
- <sup>2</sup> This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'European Parliament supporting analysis'.

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