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*Plenary sitting*

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**A8-0412/2018**

28.11.2018

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# **REPORT**

on the proposal for a regulation of the European Parliament and of the Council  
establishing the European Defence Fund  
(COM(2018)0476 – C8-0268/2018 – 2018/0254(COD))

Committee on Industry, Research and Energy

Rapporteur: Zdzisław Krasnodębski

Rapporteur for the opinion (\*):

David McAllister, Committee on Foreign Affairs

(\*) Associated committees – Rule 54 of the Rules of Procedure

***Symbols for procedures***

*	Consultation procedure
***	Consent procedure
***I	Ordinary legislative procedure (first reading)
***II	Ordinary legislative procedure (second reading)
***III	Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

***Amendments to a draft act*****Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

**Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## **DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION**

**on the proposal for a regulation of the European Parliament and of the Council  
establishing the European Defence Fund  
(COM(2018)0476 – C8-0268/2018 – 2018/0254(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2018)0476),
  - having regard to Article 294(2), and Article 173(3), Article 182(4), Article 183 and the second paragraph of Article 188, of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0268/2018),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Industry, Research and Energy and the opinions of the Committee on Foreign Affairs, the Committee on Budgets and the Committee on the Internal Market and Consumer Protection (A8-0412/2018),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

## Amendment 1

### AMENDMENTS BY THE EUROPEAN PARLIAMENT\*

to the Commission proposal

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2018/0254 (COD)

Proposal for a

### REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

### establishing the European Defence Fund

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 173(3), Article 182(4), Article 183 and the second paragraph of Article 188 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee,

Acting in accordance with the ordinary legislative procedure,

Whereas:

***(-1a) Defence is considered to be a clear example of how a greater effectiveness could be achieved by transferring certain competences and actions currently performed by the Member States and the corresponding appropriations to the European level, resulting in a demonstration of the European added value and allowing a limitation of the overall burden of public expenditure in the Union.***

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\* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol ■.

- (-1b) *The Union's geopolitical context has changed dramatically in the last decade. The situation in Europe's neighbouring regions is unstable and the Union faces a complex and challenging environment combining the emergence of new threats like hybrid and cyber-attacks and the return of more conventional challenges. Faced with that context both European citizens and their political leaders share the view that more has to be done collectively in the area of defence. 75 % of Europeans support a common defence and security policy. The Rome Declaration of the leaders of 27 Member States and of the European Council, the European Parliament and the Commission of 25 March 2017 stated that the Union will strengthen its common security and defence and foster a more competitive and integrated defence industry.*
- (1) In *its Communication of 30 November 2016 on the European Defence Action Plan*, adopted on 30 November 2016, the Commission committed to complement, leverage and consolidate collaborative efforts by Member States in developing defence technological and industrial capabilities to respond to security challenges, as well as to foster a competitive, innovative and efficient European defence industry **and to create a more integrated defence market throughout the Union**. It proposed in particular to launch a European Defence Fund (the 'Fund') to support investments in joint research and the joint development of defence products and technologies, thus fostering synergies and cost-effectiveness, and to promote the Member States' joint purchase and maintenance of defence equipment. This Fund would complement national funding already used for this purpose and should act as an incentive for Member States to cooperate **cross-border** and invest more in defence. The Fund would support cooperation during the whole cycle of defence products and technologies.
- (1a) *On 7 June 2017, the Commission adopted a Communication launching the European Defence Fund. A two-step approach was proposed: first, in order to test the approach, initial financing for both research and development has been made available under the 2014-2020 Multi-Annual Financial Framework ('MFF') by the adoption of Regulation (EU) 2018/1092 of the European Parliament and of the Council<sup>2</sup>; second, a dedicated Fund would be established under the MFF 2021 to 2027, scaling up the funding for collaborative research in innovative defence products and technologies and for subsequent stages of the development cycle, including the development of prototypes. There should be a consistent and coherent approach between those two steps.*
- (1b) *The defence sector is characterised by increasing costs of defence equipment and by high research and development (R&D) costs that limit the launch of new defence programmes and directly impact on the competitiveness and innovation capacity of the Union's industry. In view of the cost escalation, of the magnitude of non-recurring R&D expenses and of the small series that can be procured nationally, the development of a new generation of major defence systems and of new defence technologies is increasingly beyond the reach of single Member State.*
- (1c) *In its resolution of 14 March 2018 on the next MFF: Preparing the Parliament's position on the MFF post-2020, the European Parliament reiterated its support for the creation of a European Defence Union, with a specific research programme in the area of defence of the Union and an industrial development programme in which Member States invest, in order to eliminate duplication and increase the*

*strategic autonomy and efficiency of the European defence industry. It also reiterated that the Union could be stronger and more ambitious only if additional financial means were made available to it and called, therefore, for ongoing support to be provided in the context of existing policies which increase resources for the Union's flagship programmes, and for additional responsibilities to be matched with additional financial means.(1d) The situation of the defence sector has been further exacerbated by significant cuts in defence budgets across Europe in the last 10 years, affecting in particular R&D and equipment expenditures. Between 2006 and 2013 real defence expenditure levels in the EDA participating Member States were reduced by 12 %. Considering that defence R&D is the basis for the development of the future cutting-edge defence technologies, such trends are particularly worrying and pose a serious challenge to the capacity to maintain Union's defence industry competitiveness in the long term.*

- (1e) *Despite the interplay between increasing costs and decreasing spending, defence planning and defence spending on R&D and procurement of equipment has remained largely at national level with very limited cooperation between Member States in defence equipment investments. Additionally, when implemented, only few programmes are also linked to Union capability priorities - in 2015 only 16 % of equipment was procured through European collaborative procurement, far below the agreed collective benchmark of 35 %.*
- (2) The Fund would contribute to the establishment of a strong, competitive and innovative defence industrial and technological base and go hand in hand with the Union's initiatives towards a more integrated European Defence Market and in particular, the two Directives<sup>1</sup> on procurement and on EU transfers in the defence sector adopted in 2009. *It is therefore of crucial importance that key regulatory preconditions are fulfilled, especially the full implementation of those Directives. The Fund is intended to form the cornerstone of a sound European defence industrial policy.*
- (3) Following an integrated approach and in order to contribute to the enhancement of the competitiveness and innovation capacity of the Union's defence industry, a European Defence Fund should be established. The Fund should aim at enhancing the competitiveness, innovation, efficiency and **technological and industrial** autonomy of the Union's defence industry thereby contributing to the Union's strategic autonomy by supporting the cross border cooperation between Member States and between enterprises, research centres, national administrations, international organisations and universities **throughout the Union**, in the research phase and in the development phase of defence products and technologies. To achieve more innovative solutions and

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<sup>1</sup> Directive 2009/43/EC of the European Parliament and of the Council, simplifying terms and conditions of transfers of defence-related products within the Community, OJ L 146, 10.6.2009, p. 1; Directive 2009/81/EC of the European Parliament and of the Council on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, OJ L 216, 20.8.2009, p. 76.

<sup>2</sup> **Regulation (EU) 2018/1092 of the European Parliament and of the Council of 18 July 2018 establishing the European Defence Industrial Development Programme aiming at supporting the competitiveness and innovation capacity of the Union's defence industry (OJ L 200, 7.8.2018, p. 30).**



an open internal market, the Fund should support the cross-border participation of defence small and medium sized enterprises (SMEs) and middle capitalisation companies (mid-caps). ***In order to foster an open internal market, the Fund should facilitate the widening of cross-border cooperation between legal entities, in particular the cross-border participation of SMEs and mid-caps.***

- (3a) ***European security is dependent on strong and robust relations with strategic partners around the world and the Programme should enhance the competitiveness of the European defence industrial market by further strengthening partnerships through R&D, thereby promoting European strategic capacity and capability.***
- (4) The research phase is a crucial element as it conditions the capacity of the European industry and the autonomy of the European industry to develop products and the independence of Member States as defence end-users. The research phase linked to the development of defence capabilities may include significant risks, in particular related to the low level of maturity and the disruption of technologies. The development phase, which follows the research and technology phase, also entails significant risks and costs that hamper the further exploitation of the results of research and adversely impact the competitiveness and innovation of the Union's defence industry. ***The Fund should foster the link between the R&D phases of defence products and technologies in order to bridge the Valley of Death.***
- (5) The Fund should not support pure basic research which should instead be supported through other schemes but may include defence oriented basic research likely to form the basis of the solution to recognised or expected problems or possibilities.
- (6) The Fund could support actions pertaining to both new and the upgrade of existing products and technologies, wherever the use of pre-existing information needed to perform the action for the upgrade is not subject to restriction by non-associated third countries or non-associated third country entities. When applying for the Union funding, legal entities should be required to provide the relevant information to establish the absence of restrictions. In the absence of such information, the Union funding should not be possible.
- (6a) ***The Fund should adequately support R&D actions in the area of disruptive technologies for defence. As disruptive technologies can be based on concepts or ideas originating from non-traditional defence R&D actors, the Fund should allow for sufficient flexibility in consulting stakeholders, as well as in funding and managing actions.***
- (7) In order to ensure that the Union's and its Member States' international obligations are respected in the implementation of this Regulation, actions relating to products or technologies the use, development or production of which are prohibited by international law should not receive funding under the Fund. In this respect, the eligibility of actions related to new defence products or technologies, such as those that are specifically designed to carry out lethal strikes without any human control over the engagement decisions, should also be subject to developments in international law.
- (7a) ***Regarding exports of products which would be the result of R&D actions of the Programme, particular attention should be paid to Article 7(1) of the 2013 UN Arms***

*Trade Treaty, which provides that even if the export is not prohibited, exporting State Parties are, in an objective and non-discriminatory manner and taking into account relevant factors, to assess the potential that the conventional arms or items: (a) would contribute to or undermine peace and security or (b) could be used to (i) commit or facilitate a serious violation of international humanitarian law, (ii) commit or facilitate a serious violation of international human rights law, (iii) commit or facilitate an act constituting an offence under international conventions or protocols relating to terrorism to which the exporting State is a Party, or (iv) commit or facilitate an act constituting an offence under international conventions or protocols relating to transnational organized crime to which the exporting State is a Party.*

- (8) The difficulty to agree on consolidated defence capability requirements and common technical specifications or standards hampers cross-border collaboration between Member States and between legal entities based in different Member States. The absence of such requirements, specifications and standards has led to increased fragmentation of the defence sector, technical complexity, delays, ■ inflated costs, ***unnecessary duplication of capabilities*** as well as decreased interoperability. The agreement on common technical specifications should be a prerequisite for actions involving a higher level of technological readiness. Activities of Member States ***fostering interoperability***, leading to common defence capability requirements and supporting studies as well as actions aiming at supporting the creation of a common definition of technical specifications or standards should also be eligible for support by the Fund ***in order to avoid competing specifications or standards from undermining interoperability***.
- (9) As the objective of the Fund is to support the competitiveness, ***efficiency, industrial autonomy*** and innovation of the Union defence industry by leveraging and complementing collaborative defence research and technology activities and de-risking the development phase of cooperative projects, actions related to the ***R&D*** of a defence product or technology should be eligible to benefit from it. This will also apply to the upgrade, including the interoperability thereof, of existing defence products and technologies.
- (10) Given that the Fund aims particularly at enhancing cooperation between legal entities and Member States across Europe, an action should be eligible for funding only if it is undertaken by a cooperation ***within a consortium*** of at least three legal entities based in at least three different Member States. ***Any additional legal entity participating in the consortium should be permitted to be established in an associated country ■ . In every type of cooperation, legal entities established in Member States should be a majority within the consortium.*** At least three of these legal eligible entities established in at least two different Member States and/or associated countries should not be ■ controlled, directly or indirectly, by the same entity or should not control each other. In order to boost the cooperation between Member States the Fund may support joint pre-commercial procurement.

- (11) Pursuant to [reference to be updated as appropriate according to a new decision on OCTs: Article 94 of Council Decision 2013/755/EU<sup>1</sup>], entities established in overseas countries and Territories (OCTs) are to be eligible for funding subject to the rules and objectives of the Fund and possible arrangements applicable to the Member State to which the OCTs is linked.
- (12) As the Fund aims at enhancing the competitiveness, efficiency and autonomy of the Union's defence industry, only entities established in the Union or associated countries and not subject to control by non-associated third countries or non-associated third country entities should in principle be eligible for support. Additionally, in order to ensure the protection of essential security and defence interests of the Union and its Member States, the infrastructure, facilities, assets and resources used by the recipients and their subcontractors in actions supported by the Fund should **■** be located on the territory *the Union or of associated* third countries.
- (13) In certain circumstances, if this is necessary for achieving the objectives of the action, it should be possible to derogate from the principle that recipients and their subcontractors should not be subject to control by non-associated third countries or non-associated third country entities. In that perspective, legal entities established in the Union that are controlled by a non-associated third country or a non-associated third country entity can be eligible if relevant and strict conditions relating to the security and defence interests of the Union and its Member States are fulfilled. The participation of such entities should not contravene the objectives of the Fund. Applicants should provide all relevant information about the infrastructure, facilities, assets and resources to be used in the action. ***In any event, no derogation should be granted to applicants controlled by a non-associated third country subject to any Union restrictive measures or by a non-associated third-country entity subject to any Union restrictive measures.***
- (14) If a consortium wishes to participate in an eligible action and the financial assistance of the Union is to take the form of a grant, the consortium should appoint one of its members as a coordinator who will be the principal point of contact.
- (15) In case a development action supported by the Fund is managed by a project manager appointed by Member States or associated countries, the Commission should ***consult*** the project manager prior to executing the payment to the recipient so that the project manager can ensure that the time-frames are respected by the recipients. **■** The project manager ***should*** provide the Commission with its observations on the progress of the action so that the Commission can validate whether the conditions to proceed to the payment are fulfilled.
- (16) In order to ensure that the funded actions are financially viable, it is necessary that the beneficiaries demonstrate that the costs of the action not covered by the Union's funding are covered by other means of financing.

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<sup>1</sup> Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union (Overseas Association Decision) (OJ L 344, 19.12.2013, p. 1)

- (17) Different types of financial arrangement should be at the disposal to Member States for the joint development and acquisition of defence capabilities. The Financial Toolbox developed by the Commission should provide different types of arrangements that Member States can use to address challenges for collaborative development and procurement from a financing perspective. The use of such financial arrangements could further foster the launch of collaborative **and cross-border** defence projects, **contribute to avoiding duplications** and increase the efficiency of defence spending, including for projects supported under the European Defence Fund.
- (18) Given the specificities of the defence industry where demand comes almost exclusively from Member States and associated countries, which also control all acquisition of defence-related products and technologies, including exports, the functioning of the defence sector is unique and does not follow the conventional rules and business models that govern more traditional markets. Industry therefore cannot undertake substantial self-funded defence R&D projects and Member States and associated countries normally fully fund all R&D cost. To achieve the objectives of the Fund, notably to incentivise cooperation between companies from different Member States and associated countries, and taking into account the specifics of the defence sector, **the** totality of the eligible costs should be covered for actions that take place ahead of the development of prototypes phase.
- (19) The prototype phase is a crucial phase where Member States or associated countries usually decide on their consolidated investment and start the acquisition process of their future defence products or technologies. This is the reason why, at this specific stage, Member States and associated countries agree on the necessary commitments including cost-sharing and ownership of the project. To ensure the credibility of their commitment, the financial assistance of the Union under the Fund should normally not exceed 20 % of the eligible costs.
- (20) For actions beyond the prototype phase, funding up to 80% should be foreseen. These actions which are closer to product and technology finalisation may still involve substantial costs.
- (21) Stakeholders in the defence sector are facing specific indirect costs, such as costs for security. Furthermore, stakeholders are working in a specific market where they – without any demand on the buyers' side – cannot recover the **R&D** costs like in the civilian sector. Therefore, it is justified to allow a flat rate of 25 % as well as the possibility ■ to charge indirect costs calculated in accordance with the usual accounting practises of beneficiaries if these practises are accepted by their national authorities under comparable national funding schemes, which have been communicated to the Commission. ■
- (21a) *Projects with participation of cross-border SMEs and mid-caps support the opening up of the supply chains and contribute to the objectives of the Fund. Such actions should therefore be eligible for an increased funding rate benefitting all entities participating in the consortium.***
- (22) In order to ensure that the funded actions will contribute to the competitiveness and efficiency of the European defence industry, it is important that Member States already intend to jointly procure the final product or use the technology, notably

through joint cross-border procurement, where Member States jointly organise their procurement procedures in particular with the use of a central purchasing body. *As defence ministries of Member States are exclusive customers and defence industries are the sole providers of defence products, in order to facilitate procurement, ministries of defence of Member States should be involved in the project from the technical specification all the way until the project is finished.*

- (22 a) *To respond to increased instability and conflicts in their neighbourhood and new security and geopolitical threats, Member States and the Union need to coordinate investment decisions, and thus require a common definition of threats, needs and priorities, including anticipated military capability needs, which could be identified via procedures such as the Capability Development Plan (CDP).*
- (23) The promotion of innovation and technological development in the Union defence industry should take place in a manner coherent with the security and defence interests of the Union. Accordingly, the action's contribution to those interests and to the defence research and capability priorities commonly agreed by Member States should serve as an award criterion. Within the Union, common defence research and capability shortfalls are identified in the Common Security and Defence Policy (CSDP) framework notably through Overarching Strategic Research Agenda and the **CDP, including the CDP Strategic Context Cases**. Other Union processes such as the Coordinated Annual Review on Defence and the Permanent Structured Cooperation will support the implementation of relevant priorities through identifying and taking forward opportunities for enhanced cooperation with a view to fulfilling the EU level of ambition on security and defence. Where appropriate, regional and international priorities, including those in the North Atlantic Treaty Organisation context, *should* also be taken into account if they are in line with Union priorities and do not prevent any Member State or an associated country from participating, while also taking into account that unnecessary duplication should be avoided.
- (24) Eligible actions developed in the context of Permanent Structured Cooperation (PESCO) in the institutional framework of the Union should ensure enhanced cooperation between legal entities in the different Member States on a continuous basis and thus directly contribute to the aims of the Fund. If selected, such projects should thus be eligible for an increased funding rate.
- (24 a) *The Fund should take into account the Action Plan on Military Mobility as part of the next Connecting Europe Facility, European Peace Facility to support, and, inter alia, Common Foreign and Security Policy CFSP/CSDP Missions and efforts to counter Hybrid Threats, that together with CDP, CARD and PESCO help to coordinate capability planning, development, procurement and operations.*
- (25) The Commission will take into account the other activities financed under the Horizon Europe Framework programme in order to avoid unnecessary duplication and ensure the cross-fertilisation *and synergy* between civil and defence research *and ensure that Horizon Europe remains a purely civil research programme.*
- (26) Cybersecurity and cyber defence are increasingly important challenges and the Commission and the High Representative recognised the need to establish synergies between cyber defence actions within the scope of the Fund and Union initiatives in the field of cybersecurity, such as those announced in the Joint Communication on

cybersecurity. In particular, the European Cybersecurity Industrial, Technology and Research Competence Centre to be set up should seek synergies between the civilian and defence dimensions of cybersecurity. It could actively support Member States and other relevant actors by providing advice, sharing expertise and facilitating collaboration with regard to projects and actions as well as when requested by Member States acting as a project manager in relation to the European Defence Fund.

- (27) An integrated approach should be ensured by bringing together activities covered by the Preparatory Action on Defence Research launched by the Commission within the meaning of Article [58 (2) (b)] of Regulation (EU, Euratom) 2018/... of the European Parliament and of the Council (the 'Financial Regulation') and the European Defence Industrial Development Programme established by Regulation (EC) No ... of the European Parliament and of the Council and to harmonise the conditions for participation, to create a more coherent set of instruments, to increase the innovative, collaborative and economic impact, while avoiding unnecessary duplication and fragmentation. With this integrated approach, the Fund would also contribute to a better exploitation of the results of defence research, covering the gap between **R&D** taking into account the specificities of the defence sector, and promoting all forms of innovation, **and as positive spillover effects can be expected, where applicable, in the civil field**, including disruptive innovation where possible failure should be accepted.
- (28) The policy objectives of this Fund will be also addressed through financial instruments and budgetary guarantees under the policy window(s) [...] of the InvestEU Fund.
- (29) Financial support should be used to address market failures or sub-optimal investment situations, in a proportionate manner and actions should not duplicate or crowd out private financing or distort competition in the internal market. Actions should have a clear European added value.
- (30) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the costs of controls, the administrative burden, and the expected risk of non-compliance. This should include consideration of the use of lump sums, flat rates and unit costs, as well as financing not linked to costs as referred to in Article [125(1)] of the Financial Regulation.
- (31) The Commission should establish annual or multiannual work programmes in line with the objectives of the Fund. ***The work programmes should take into account the initial lessons learned from of the European Defence Industrial Development Programme, the Pilot Project and the Preparatory Action on Defence Research.*** █
- (32) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission as regards the adoption of the work programme and for awarding the funding to selected development actions.. In particular, while implementing development actions, the specificities of the defence sector, notably the responsibility of Member States and/or associated countries for the planning and acquisition process, should be taken into account. These

implementing powers should be exercised in accordance with Regulation (EU) [No 182/2011 of the European Parliament and of the Council]<sup>1</sup>.

- (33) In order to support an open internal market, participation of cross-border SMEs and mid-caps, either as members of consortia or as subcontractors, should be encouraged. ***The work programme should ensure that a credible proportion of the overall budget benefits actions enabling the cross-border participation of SMEs and mid-caps.***
- (34) The Commission should endeavour to maintain dialogue with ***the European Parliament***, Member States and industry to ensure the success of the Fund ***through the impact it brings to the defence industry.***
- (35) This Regulation lays down a financial envelope for the European Defence Fund which is to constitute the prime reference amount, within the meaning of [the new inter-institutional agreement] between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management<sup>2</sup>, for the European Parliament and the Council during the annual budgetary procedure. ***The Commission should ensure that administrative procedures are kept as simple as possible and incur a minimum amount of additional expenses.***
- (36) The Financial Regulation applies to the Fund, unless otherwise specified. It lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, financial assistance, financial instruments and budgetary guarantees.
- (37) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective EU funding.
- (38) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>3</sup>, Council Regulation (Euratom, EC) No 2988/95<sup>4</sup>, Council Regulation (Euratom, EC) No 2185/96<sup>1</sup> and Council Regulation

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<sup>1</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

<sup>2</sup> Reference to be updated: OJ C 373, 20.12.2013, p. 1. The agreement is available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C\\_.2013.373.01.0001.01.ENG&toc=OJ:C:2013:373:TOC](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2013.373.01.0001.01.ENG&toc=OJ:C:2013:373:TOC)

<sup>3</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999, (OJ L248, 18.9.2013, p. 1).

<sup>4</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95, p.1):

(EU) 2017/1939<sup>2</sup>, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96 the European Anti-Fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office (EPPO) may investigate and prosecute fraud and other criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>3</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, the EPPO and the European Court of Auditors (ECA) and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

- (39) Third countries which are members of the European Economic Area (EEA) may participate in Union programmes in the framework of the cooperation established under the EEA agreement, which provides for the implementation of the programmes by a decision under that agreement. A specific provision should be introduced in this Regulation to grant the necessary rights for and access to the authorising officer responsible, the European Anti-Fraud Office (OLAF) as well as the European Court of Auditors to comprehensively exert their respective competences.
- (40) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016, there is a need to evaluate this regulation on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the regulation on the ground. The Commission should carry out an interim evaluation no later than four years after the start of the Fund implementation and a final evaluation at the end of the implementation period of the Fund, examining the financial activities in terms of financial implementation results and to the extent possible at that point in time, results and impact. *Those reports* should also analyse the cross-border participation of SMEs and mid-caps in projects supported by the Fund as well as the participation of SMEs and mid-caps to the global value chain *and should also contain information on the countries of origin of the recipients, the number of countries involved in individual projects and, where*

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<sup>1</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L292, 15.11.96, p.2)

<sup>2</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

<sup>3</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L198, 28.7.2017, p.29).



*possible, the distribution of the generated intellectual property rights.* The Commission may also propose amendments to this Regulation to react on possible developments during the implementation of the Fund.

- (41) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals, this Fund **■** will contribute to mainstream climate action in the Union's policies and to the achievement of an overall target of 25 % of the EU budget expenditures supporting climate objectives. Relevant actions will be identified during the Fund's preparation and implementation, and reassessed in the context of its mid-term evaluation.
- (42) As the Fund supports only the **R&D** phases of defence products and technologies, **■** the Union should not have ownership or intellectual property rights (IPRs) over the products or technologies resulting from the funded actions unless the Union assistance is provided through procurement. However, for research actions, interested Member States and associated countries should have the possibility to use the results of funded actions and participate in follow-up cooperative development and therefore derogations to that principle should be allowed.
- (43) The Union financial support should ***be accompanied by the full and proper implementation of*** Directive 2009/43/EC of the European Parliament and ***of*** the Council<sup>1</sup> ***on the transfer of defence-related products within the Union, and should not affect*** the export of products, equipment or technologies.
- (44) Use of sensitive background information or access by unauthorised individuals to sensitive results generated by research projects may have an adverse impact on the interests of the Union or of one or more of the Member States. Thus handling of confidential data and classified information should be governed by all relevant Union law, including the Institutions' internal rules, such as Commission Decision (EU, Euratom) 2015/444<sup>2</sup>.
- (45) In order to be able to supplement or amend this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the award of funding for development actions, the adoption of the work programmes and the impact pathway indicators. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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<sup>1</sup> Directive 2009/43/EC of the European Parliament and the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community (OJ L 146, 10.6.2009, p. 1).

<sup>2</sup> Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53)

- (46) The Commission should manage the Fund having due regard to the requirements of confidentiality and security, in particular classified information and sensitive information.
- (46 a) *Undertakings, when proposing new defence products or technologies or proposing to re-purpose existing ones, are bound by the applicable legislation. Where no readily applicable legislation exists, they should commit themselves to respecting a body of universal ethical principles relating to the fundamental rights and the welfare of human beings, the protection of the human genome, the treatment of animals, the preservation of the natural environment, the protection of the cultural heritage, and the equitable access to global commons, including space and the cyberspace. The Commission should ensure that proposals are systematically screened to identify those actions raising serious ethics issues and submit them to an ethics assessment. Actions which are not ethically acceptable should not receive Union funding.*
- (46 b) *The Council should endeavour to establish a decision on the use of armed unmanned aerial vehicles before [31 December 2020]. No funding should be made available for developing armed unmanned aerial vehicles before that decision has entered into force.*

HAVE ADOPTED THIS REGULATION:

# **TITLE I**

## **COMMON PROVISIONS**

### **APPLICABLE FOR RESEARCH AND DEVELOPMENT**

#### **CHAPTER I**

##### **GENERAL PROVISIONS**

###### *Article 1*

###### Subject matter

This Regulation establishes the European Defence Fund ('the Fund'). It lays down the objectives of the Fund, the budget for the period 2021-2027, the forms of Union funding and the rules for providing such funding.

###### *Article 2*

###### Definitions

For the purposes of this Regulation, the following definitions apply:

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- (2) 'control' means the ability to exercise a decisive influence on an legal entity directly or indirectly through one or more intermediate legal entities;
- (3) 'development action' means any action consisting primarily of defence-oriented activities in the development phase, covering new products or technologies or the upgrading of existing ones, excluding the production or use of weapons;
- (4) 'disruptive technology for defence' means a technology the application of which can radically change the concepts and conduct of defence affairs.;
- (5) 'executive management structures' means any body or bodies, appointed in accordance with national law, which are empowered to set the legal entity's strategy, objectives and overall direction, and which oversee and monitor management decision-making;
- (6) 'legal entity' means any natural or legal person created and recognised as such under national law, Union law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations, or an entity without a legal personality in accordance with Article [197(2)(c)] of the Financial Regulation;
- (7) 'mid-cap' means an enterprise that is not a micro-, small - and medium size enterprises ('SME'), as defined in Commission recommendation 2003/361/EC<sup>1</sup> and that has a number of employees of up to 3 000 employees, where the staff headcount

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<sup>1</sup> Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

is calculated in accordance with Articles 3, 4, 5 and 6 of Title I of the Annex to that Recommendation;

- (8) 'pre-commercial procurement' means the procurement of research and development services involving risk-benefit sharing under market conditions, 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;
- (9) 'project manager' means any contracting authority established in a Member State or an associated country, set up by a Member State or an associated country or a group of Member States and/or associated countries to manage multinational armament projects permanently or on an ad-hoc basis;
- (10) 'recipient' means any legal entity receiving funding under this Fund;
- (11) 'research action' means any action consisting of research activities with an exclusive focus on defence applications;
- (12) 'results' means any tangible or intangible effect of the action, such as data, know-how or information, whatever its form or nature, whether or not it can be protected, as well as any rights attached to it, including intellectual property rights;
- (13) 'special report' means a specific deliverable of a research action summarising its results, providing extensive information on the basic principles, the aims, the actual outcomes, the basic properties, the performed tests, the potential benefits, the potential defence applications and the expected exploitation path of the research;
- (14) 'system prototype' means a model of a product or technology that can demonstrate performance in an operational environment;
- (15) 'third country' means a country that is not a member of the Union;
- (16) 'non-associated third country' means a third country that is not an associated country in accordance with Article 5;
- (17) 'non-associated third country entity' means a legal entity established in a non-associated third country or having its executive management structures in a non-associated third country;
- (17a) ***'qualification' means the entire process of demonstrating that the design of a defence product, tangible or intangible component or technology meets the specified requirements. That process provides objective evidence by which particular requirements of a design are demonstrated to have been achieved;***
- (17b) ***'consortium' means a collaborative grouping of legal entities constituted to undertake an action under the Fund;***
- (17c) ***'certification' means the process according to which a national authority certifies that the defence product, tangible or intangible component or technology complies with the applicable regulations;***

- (17 d) *'coordinator' means a legal entity belonging to a consortium and appointed by all consortium members to be the principal point of contact with the Commission for the grant agreement.*

### Article 3 Objectives of the Fund

1. The general objective of the Fund is to foster the competitiveness, efficiency and innovation capacity of the European defence industry, by supporting collaborative actions and cross-border cooperation between legal entities *throughout the Union*, including SMEs and mid-caps as well as *strengthening and improving the agility of both defence supply and value chains, widening cross-border cooperation between legal entities and* fostering the better exploitation of the industrial potential of innovation, research and technological development, at each stage of the **■** life cycle *of defence products and technologies.* **■** The Fund *shall* contribute to the freedom of action of the Union and its *strategic* autonomy, *in particular in technological and industrial terms.*
2. The Fund shall have the following specific objectives:
  - (a) support *highly efficient* collaborative research projects that could significantly boost the performance of *European* future capabilities, aiming at maximising innovation and introducing new defence products and technologies, including disruptive ones;
  - (b) support collaborative *European* development projects of defence products and technologies consistent with defence capability priorities commonly agreed by Member States within the framework of the Common Foreign and Security Policy, *particularly in the context of the Capability Development Plan of the Common Security and Defence Policy*, thus contributing to greater efficiency of defence spending within the Union, achieving greater economies of scale, reducing the risk of **■** duplication, *reducing the over-dependence on imports from third countries thus increasing the acquisition of European equipment by Member States, and* as such reducing the fragmentation of *the market in* defence products and technologies throughout the Union, *as well as seeking to increase the standardisation of defence systems and the* interoperability between Member States' capabilities.

### Article 4 Budget

1. The financial envelope for the implementation of the European Defence Fund for the period 2021 – 2027 shall be *EUR 11 453 260 000 in 2018 prices (EUR 13 000 000 000 in current prices).*
2. The **■** distribution of the amount referred to in paragraph 1 shall be:

- (a) ■ EUR 3 612 182 000 in 2018 prices (EUR 4 100 000 000 for research actions *in current prices*);
- (b) ■ EUR 7 841 078 000 in 2018 prices (EUR 8 900 000 000 *in current prices*) for development actions.

2a. *In order to respond to unforeseen situations or to new developments and needs, the Commission may, within the annual budgetary procedure, deviate from the amounts referred to in paragraph 2 by a maximum of 10 %.*

- 3. The amount referred to in paragraph 1 may be used for technical and administrative assistance for the implementation of the Fund, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems. *That amount shall not exceed 5 % of the value of the financial envelope referred to in paragraph 1.*
- 4. *At least 5 % and up to 10 % of the financial envelope referred to in paragraph 1 shall be devoted to support disruptive technologies for defence.*

■

#### Article 5 Associated countries

The Fund shall be open to the European Free Trade Association (EFTA) members which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the EEA agreement. *Any financial contribution to the Fund pursuant to this Article shall constitute assigned revenue in accordance with Article [21(5)] of the Financial Regulation.*

#### Article 6 Support to disruptive technologies for defence

- 1. The Commission shall award funding through open and public consultations on *disruptive technologies with an exclusive focus on defence applications on the areas of intervention defined in the work programmes in accordance with the procedure provided for in Article 27.*
- 2. The Commission *shall*, on a case by case basis, find the most appropriate form of funding to finance *disruptive technologies*.

#### Article 7 Ethics

- 1. Actions carried out under the Fund shall comply with ethical principles and relevant national, Union and international legislation.

2. Proposals shall be systematically, *on an ex-ante basis*, screened *by the Commission* to identify those actions raising complex or serious ethics issues and, *where appropriate*, submit them to an ethics assessment. Ethics screenings and assessments shall be carried out by the Commission with the support of *independent* experts *with various backgrounds*. The Commission shall ensure the transparency of the ethics procedures as much as possible *and report on this in the framework of its reporting and evaluation obligations under Articles 31 and 32. All experts shall be citizens of the Union and shall be nationals of as broad a range of Member States as possible.*
3. Entities participating in the action shall obtain all approvals or other mandatory documents from the relevant national, local ethics committees or other bodies such as data protection authorities before the start of the relevant activities. Those documents shall be kept on file and provided to the Commission.
5. Actions which are not ethically acceptable *shall* be rejected

## CHAPTER II FINANCIAL PROVISIONS

### *Article 8*

#### Implementation and forms of EU funding

1. The Fund shall be implemented *by the Commission* in direct management in accordance with the Financial Regulation.
2. The Fund may provide funding in any of the forms laid down in the Financial Regulation, in particular grants, prizes and procurement.

### *Article 9*

#### Cumulative, complementary and combined funding

1. An action that has received a contribution from another Union programme may also receive a contribution under the Fund, provided that the contributions do not cover the same costs. The rules of each contributing Union programme/Fund shall apply to its respective contribution to the action. The cumulative funding shall not exceed the total eligible costs of the action and the support from the different Union programmes may be calculated on a pro-rata basis in accordance with the documents setting out the conditions for support.
- 2.

# CHAPTER III

## ELIGIBILITY CONDITIONS, AWARD CRITERIA AND FINANCING

### Article 10 Eligible entities

1. Applicants and their subcontractors *involved in the action* shall be eligible for funding provided that they are established in the Union or in an associated country *as referred to in Article 5*, have their executive management structures in the Union or in an associated country and are not controlled by a non-associated third country or by a non-associated third country entity.
2. By derogation from paragraph 1, an applicant *or a subcontractor involved in the action* established in the Union or in an associated country and controlled by a non-associated third country or a non-associated third country entity *shall be capable of constituting an eligible entity* for funding if this is necessary for achieving the objectives of the action and provided that its participation does not put at risk the security *and defence* interests of the Union and its Member States *or the objectives set out in Article 3*. In order to ensure protection of the security interests of the Union and its Member States, the call for proposals shall require the applicant to *commit to implement appropriate measures before the beginning of the action, ensuring* that:
  - (a) **█** control over the applicant *is not* exercised in a manner that *limits* in any way its ability to *carry out the action and to deliver results, that imposes restrictions concerning its infrastructure, facilities, assets, resources, intellectual property or know-how needed for the purpose of the action, or that undermines its capabilities and standards necessary for the execution of* the action;
  - (b) **█** access by non-associated third countries or by non-associated third country entities to classified and non-classified sensitive information relating to the action *is* prevented; and the *employees or other persons* involved in the action **█** have a national security clearance issued by a Member State or associated country;
  - (c) *ownership of the intellectual property arising from, and* the results of the action shall remain within the beneficiary and *are not* subject to control or restrictions by non-associated third countries or other non-associated third country entities *and are not exported to or given access to from a third country or a third-country entity without the approval of the Member States in which the beneficiary is established, and consistent with the objectives set out in Article 3, during the action and for a specified period after its completion, such a period being stipulated in the grant agreement.*

*An applicant or a subcontractor involved in the action that has its executive management structure in the Union or in an associated country and that is*



***controlled by a non-associated third country subject to any Union restrictive measures or by a non-associated third-country entity subject to any Union restrictive measures shall not be granted a derogation under this paragraph.***

3. All infrastructure, facilities, assets and resources used in actions financed under the Fund shall be located on the territory of the Union or associated countries ***and shall not be subject to any control or restriction by a non-associated third country or by a non-associated third-country entity.*** Furthermore, when performing an eligible action, beneficiaries and their subcontractors ***involved in the action*** shall cooperate only with legal entities established in the Union or in an associated country and not controlled by non-associated third countries or non-associated third country entities.
4. By derogation from the paragraph 3, ***if there are no competitive substitutes readily available in the Union,*** beneficiaries and subcontractors involved in the action may use their assets, infrastructure, facilities and resources located or held on the territory of a non-associated third country if this is necessary for achieving the objectives of an action and provided that this will not put at risk the security ***and defence interests*** of the Union and its Member States ***or the objectives set out in Article 3.*** Under the same conditions, when performing an eligible action, beneficiaries and their subcontractors ***involved in the action*** may cooperate with an entity established in a non-associated third country. The costs related to the use of such infrastructure, facilities, assets or resources and to such cooperation shall not be eligible ***for funding*** under the Fund. ***In any event, such derogation shall not be granted if those assets, infrastructure, facilities and resources are located or held on the territory of a non-associated third country subject to any Union restrictive measures.***
5. In order to ensure protection of the security interests of the Union and its Member States, the call for proposals or grant agreement shall specify ***all*** conditions, ***including those referred to in point 2 of this Article.*** These conditions shall relate, in particular to the provisions on ownership of results of the action and access to classified and non-classified sensitive information and to guarantees on security of supply.
6. Applicants shall provide all relevant information necessary for the assessment of the eligibility criteria and the conditions referred to in paragraphs 1 to 4.
7. Applications which require the verifications under paragraph 2 or paragraph 4 may only be submitted with the agreement of the Member State or associated country in which the applicant is established.
8. In the event of a change during the implementation of an action which might question the fulfilment of those criteria and conditions, the beneficiary shall inform the Commission, which shall assess whether those criteria and conditions are still met and address the potential impact (***suspension, cancellation***) on the funding of the action.
9. For the purpose of this Article, subcontractors means subcontractors with a direct contractual relationship to a beneficiary, other subcontractors to which at least 10% of the total eligible costs of the action is allocated, and subcontractors which may

require access to classified information according to Commission Decision (EU, Euratom) 2015/444 in order to carry out the action.

#### *Article 11* Eligible actions

1. Only actions implementing the objectives referred to in Article 3 shall be eligible for funding.
2. The Fund shall provide support for actions covering both new and upgrade of existing products and technologies where the use of pre-existing information needed to perform the upgrade is not subject, directly or indirectly to a restriction by non-associated third countries or non-associated third country entities.
3. An eligible action shall relate to one or more of the following items:
  - (a) activities aiming to create, underpin and improve ■ knowledge and defence ***products or technologies, including disruptive defence technologies***, which can achieve significant effects in the area of defence;
  - (b) activities aiming to increase interoperability and resilience, including secured production and exchange of data, master critical defence technologies, strengthen the security of supply or enable effectively exploitation of results for defence products and technologies;
  - (c) studies, such as feasibility studies to explore the feasibility of a new or improved technology, product, process, service, solution ■ ;
  - (d) the design of a defence product, tangible or intangible component or technology as well as the definition of the technical specifications on which such design has been developed which may include partial tests for risk reduction in an industrial or representative environment;
  - (e) the development of a model of a defence product, tangible or intangible component or technology, which can demonstrate the element's performance in an operational environment (system prototype);
  - (f) the testing of a defence product, tangible or intangible component or technology;
  - (g) the qualification of a defence product, tangible or intangible component or technology ■ ;
  - (h) the certification of a defence product, tangible or intangible component or technology ■ ;
  - (i) the development of technologies or assets increasing efficiency across the life cycle of defence products and technologies;

■

4. **█** The action shall be undertaken in a cooperation *within a consortium* of at least three legal entities which are established in at least three different Member States *Any additional legal entity participating in the consortium may be established in an associated country as referred to in Article 5* . At least three of these eligible entities established in at least two Member States and/or associated countries shall not, during the whole implementation of the action, be **█** controlled, directly or indirectly, by the same entity, and shall not control each other.
5. Paragraph 4 shall not apply to **█** actions referred to in points c) **█** of paragraph 3 and to actions referred to in Article 6.
6. Actions for the development of products and technologies the use, development or production of which is prohibited by applicable international law shall not be eligible *for funding. In particular, the Programme shall not fund incendiary weapons including white phosphorus, depleted uranium ammunitions, lethal autonomous weapons without meaningful human control over the critical functions of selecting and attacking individual targets, small arms and light weapons mainly developed for export purposes, i.e. where no Member State has expressed a requirement for the action to be carried out.*
- 6a. *Actions for the development of products and technologies which are capable of committing or facilitating the following shall not be eligible for funding under the Programme:*
  - (i) *a serious violation of international humanitarian law;*
  - (ii) *a serious violation of international human rights law;*
  - (iii) *an act constituting an offence under international conventions or protocols relating to terrorism;*
  - (iv) *an act constituting an offence under international conventions or protocols relating to transnational organized crime.*

#### Article 12

##### Selection and award procedure

1. Grants may be awarded without a call for proposals to legal entities identified in the work programme in accordance with Article [195(e)] of the Financial Regulation.
2. The Commission shall award the funding for selected actions after each call or after application of Article [195(e)] of the Financial Regulation.
3. For the award of funding for development actions, the Commission shall act by means of *delegated* acts adopted in accordance with the procedure referred to in Article 28 a.

*Article 13*  
Award criteria

1. Each proposal shall be assessed on the basis of the following criteria:
  - (a) contribution to excellence or potential of disruption in the defence domain in particular by showing that the expected results of the proposed action present significant advantages over existing products or technologies;
  - (b) contribution to the innovation and technological development of the European defence industry, in particular by showing that the proposed action includes ground-breaking or novel concepts and approaches, new promising future technological improvements or the application of technologies or concepts previously not applied in defence sector;
  - (c) contribution to the competitiveness of the European defence industry, in particular by creating new market opportunities and accelerating the growth of companies throughout the Union;
  - (ca) contribution to the industrial and technological autonomy of the Union by enhancing defence technologies or products in line with defence capability priorities agreed by Member States within the framework of the CFSP and in particular in the context of the CDP of the CSDP;*
  - (d) contribution to the security and defence interests of the Union in line with the priorities referred to in Article 3 paragraph 2 and, where appropriate, regional and international cooperative agreements;
  - (e) contribution to the creation of new cross-border cooperation between legal entities, in particular for SMEs *and mid-caps* which are established in Member States and/or associated countries other than those where the entities in the consortium which are not SMEs *and mid-caps* are established;
  - (f) quality and efficiency of the implementation of the action.
2. Under points (d) of paragraph 1, regional and international priorities may be taken into account, in particular to avoid unnecessary duplication, provided they serve the Union's security and defence interests and do not exclude the participation of any Member State.

*Article 14*  
Co-financing rate

1. The Fund *shall* finance ■ 100 % of the eligible costs of an action without prejudice to the co-financing principle.
2. By derogation from paragraph 1:

- (a) for actions defined in Article 11(3)(e) the financial assistance of the Fund shall not exceed 20% of the eligible costs of the action,
  - (b) for actions defined in Article 11(3) f) to h) the financial assistance of the Fund shall not exceed 80% of the eligible costs of the action.
3. For development actions the funding rate shall be increased, *without being allowed to exceed the total eligible cost*, in the following cases:
- (a) an action developed in the context of the Permanent Structured Cooperation as established by Council Decision (CFSP) 2017/2315 of 11 December 2017, it **shall** benefit from a funding rate increased by an additional 10 percentage points;
  - (b) **an action** shall benefit from a funding rate increased by the percentage points equivalent to the percentage of the total eligible costs allocated to SMEs established in a Member State or an associated country other than those in which the consortium members that are not SMEs *or mid-caps* are established in;
  - (c) **an action** shall benefit from a funding rate increased by the percentage points equivalent to the quarter of the percentage of the total eligible costs allocated to mid-caps established in a Member State or an associated country other than those in which the other consortium members that are not SMEs or mid-caps are established in;
  - (d) the overall increase in the funding rate of an action shall not exceed 30 percentage points.

#### *Article 15* Financial capacity

By derogation from Article [198] of the Financial Regulation:

- (a) the financial capacity shall be verified only for the coordinator and only if the requested funding from the Union is equal to or greater than EUR 500 000. However, if there are grounds to doubt the financial capacity, the Commission shall verify also the financial capacity of other applicants or of coordinators below the threshold referred to in the first sentence;
- (b) the financial capacity shall not be verified in respect of legal entities whose viability is guaranteed by a Member State and in respect of universities **and public research centres**;
- (c) if the financial capacity is structurally guaranteed by another legal entity, the financial capacity of the latter shall be verified.

#### *Article 16* Indirect costs

1. Indirect eligible costs shall be determined by applying a flat rate of 25 % of the total direct eligible costs, excluding direct eligible costs for subcontracting, financial support to third parties and any unit costs or lump sums which include indirect costs.
2. *As an alternative*, indirect eligible costs ■ may be determined in accordance with the beneficiary's usual cost accounting practices on the basis of actual indirect costs provided that these cost accounting practices are accepted by national authorities under comparable funding schemes in accordance with Article [185] of the Financial Regulation and communicated to the Commission.

#### *Article 17*

##### Use of single lump sum or contribution not linked to costs

1. For grants awarded to actions referred to Article 11(3)(e) and other actions where Member States and/or associated countries finance *more than 50 %* of the budget, the Commission may use:
  - (a) a contribution not linked to costs referred to in Article [180(3)] of the Financial Regulation and based on the achievement of results measured by reference to previous set milestones or through performance indicators; or
  - (b) a single lump sum referred to in Article [182] of the Financial Regulation and based on the provisional budget of the action already endorsed by the national authorities of the co-financing Member States and associated countries.
2. Indirect costs shall be included in the lump sum.

#### *Article 18*

##### Pre-commercial procurement

1. The Union may support pre-commercial procurement through awarding a grant to contracting authorities or contracting entities as defined in Directives 2014/24/EU<sup>1</sup>, 2014/25/EU<sup>2</sup> and 2009/81/EC<sup>3</sup> of the European Parliament and of the Council, which are jointly procuring *defence* research and development of ■ services or coordinating their procurement procedures.
2. The procurement procedures:
  - (a) shall be in line with the provisions of this Regulation;

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<sup>1</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC. (OJ L 94, 28.03.2014, p. 65).

<sup>2</sup> Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.03.2014, p. 243).

<sup>3</sup> Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.08.2009, p.76).

- (b) may authorise the award of multiple contracts within the same procedure (multiple sourcing);
- (c) shall provide for the award of the contracts to the tender(s) offering best value for money.

*Article 19*  
Guarantee Fund

Contributions to a mutual insurance mechanism may cover the risk associated with the recovery of funds due by recipients and shall be considered a sufficient guarantee under the Financial Regulation. The provisions laid down in [Article X of] Regulation XXX [successor of the Regulation on the Guarantee Fund] shall apply.

*Article 21*  
*Access to financial instruments*

***Beneficiaries of the Fund*** shall be *eligible to access the dedicated financial products deployed under InvestEU* in accordance with ■ Title X of the Financial Regulation.

## TITLE II

### SPECIFIC PROVISIONS

### APPLICABLE FOR RESEARCH

#### *Article 22*

#### Ownership of results

1. The results of the actions shall be owned by the beneficiaries generating them. Where legal entities jointly generate results, and where their respective contribution cannot be ascertained, or where it is not possible to separate such joint results, the legal entities shall have joint ownership of the results. ***The joint owners shall conclude an agreement regarding the allocation and terms of exercise of that joint ownership in accordance with their obligations under the grant agreement.***
2. If Union assistance is provided in the form of public procurement, results shall be owned by the Union. Member States and associated countries shall enjoy access rights to the results, free of charge, upon their ***written*** request.
3. **■** The results of actions receiving support from the Fund shall not be subject to any control or restriction, directly or indirectly through one or more intermediate legal entities, including in terms of technology transfer by a non-associated third country or by a non-associated third country entity.
4. The grant agreement shall, if justified, lay down the right of the Commission to be notified of and object to the transfer of ownership to results or to the granting of a license regarding results to a non-associated third country or a non-associated third country entity. Such transfers shall not contravene the defence and security interests of the Union and its Member States or the objectives of this Regulation as set out in Article 3.
5. The national authorities of Member States and associated countries shall enjoy access rights to the special report of ***an action*** that has received Union funding. Such access rights shall be granted on a royalty-free basis and transferred by the Commission to the Member States and associated countries after ensuring that appropriate confidentiality obligations are in place. ***In any event, participants shall not be required to provide any data or information that are part of intellectual property in the special report.***
6. The national authorities of Member States and associated countries shall use the special report solely for purposes related to the use by or for their armed forces, or security or intelligence forces, including within the framework of their cooperative programmes. Such usage shall include, but not be limited to, the study, evaluation, assessment, research, design, development, manufacture, improvement, modification, maintenance, repair, refurbishment, and product acceptance and certification, operation, training, disposal and other design services and product deployment, as well as the assessment and drafting of technical requirements for procurement.



7. The beneficiaries shall grant access rights to their results on a royalty-free basis to the Union institutions, bodies or agencies, for duly justified purpose of developing, implementing and monitoring Union policies or programmes. Such access rights shall be limited to non-commercial and non-competitive use.
8. Specific provisions regarding ownership, access rights and licensing shall be laid down in the grant agreements and contracts regarding pre-commercial procurement to ensure maximum uptake of the results and to avoid any unfair advantage. ■ If a contractor fails to commercially exploit the results within a given period after the pre-commercial procurement as identified in the contract, it shall, *where possible*, transfer any ownership of the results to the contracting authorities.
- 8a. *Any three or more Member States or associated countries that, multilaterally or within the frame of a Union organisation, jointly have concluded one or several contracts with one or more participants to further develop together results obtained within the frame of a specific action that has received funding under a grant agreement for a research action on defence, shall enjoy access rights to the results of the action that are owned by such participant and are necessary for the execution of the contract. Such access rights shall be granted on a royalty-free basis and under specific conditions aimed at ensuring that those rights are used only for the purpose of the contract and that appropriate confidentiality obligations are in place.*

# **TITLE III**

## **SPECIFIC PROVISIONS**

### **APPLICABLE FOR DEVELOPMENT**

#### *Article 23*

##### Additional eligibility criteria

1. Where applicable, the consortium shall demonstrate that the remaining costs of an eligible action which are not covered by the Union support will be covered by other means of financing such as Member States' and/or associated countries' contributions or co-financing from legal entities.
2. When it relates to actions referred to in point d) of Article 11 paragraph 3, the action shall be based on harmonised capability requirements jointly agreed by the relevant Member States and/or associated countries.
3. For actions referred to in points e) to h) of Article 11 paragraph 3, the consortium shall demonstrate by means of documents issued by national authorities that:
  - (a) at least two Member States **■** or ***at least one Member State with*** associated countries ***provide guarantees*** to procure the final product or use the technology in a coordinated way. ***This may include*** joint procurement;
  - (b) the action is based on common technical specifications jointly agreed by the Member States and/or associated countries which co-finance the action.

#### *Article 24*

##### Additional award criteria

In addition to the award criteria referred to in Article 13, the work programme may also take into consideration:

- (a) the contribution to increasing efficiency across the life cycle of defence products and technologies, including cost-effectiveness and the potential for synergies in the procurement and maintenance process and disposal processes;
  - (b) the level of cooperation between Members States ***involved*** in the eligible action.
- (b a) the intended procurement volume and the expected effect on Member States' defence capabilities and expenditure, and the European Strategic Autonomy.***

#### *Article 25*

##### Ownership of results

1. The Union shall not own the products or technologies resulting from development actions, nor shall it have any intellectual property rights regarding the results of the actions.
- 1a. The results of the actions shall be owned by the beneficiaries which have generated them. Where legal entities jointly generate results, and where their respective contribution cannot be ascertained, or where it is not possible to separate such joint results, the legal entities shall have joint ownership of the results. The joint owners shall conclude an agreement regarding the allocation and terms of exercise of that joint ownership in accordance with their obligations under the grant agreement.*
2. The results of actions receiving support from the Fund shall not be subject to any control or restriction by non-associated third countries or by non-associated third country entities, directly or indirectly through one or more intermediate legal entities, including in terms of technology transfer.
3. With regard to results generated by recipients ***this Regulation, and without prejudice to paragraph 2 of this Article***, the Commission shall be notified *ex ante*, ***at least six weeks before***, of any transfer of ownership or grant of a licence to non-associated third countries ***or to non-associated third country entities***. ***If*** such transfer of ownership or granting of a licence ***contravenes*** the defence and security interests of the Union and its Member States or the objectives ***of*** this Regulation as set out in Article 3, ***the funding provided under the Fund shall be reimbursed.***
4. By derogation from paragraph 1, where the Union assistance is provided in the form of public procurement, the Union shall own the results and Member States and/or associated countries shall have the right, free of charge, to a non-exclusive licence for the use of the results upon their written request.

#### Article 26

##### Information of the project manager

In case a project manager is appointed by Member States and associated countries, the Commission shall ***consult*** the project manager ***on progress made with regard to the action prior to executing the payment to the beneficiary of the eligible action.***

## TITLE IV

# GOVERNANCE, MONITORING, EVALUATION AND CONTROL

### Article 27 Work programmes

1. The Fund shall be implemented by annual or multi annual work programmes established in accordance with Article [110] of the Financial Regulation. █
- 1a. The work programmes may, in particular, take into account the strategies developed in the Overarching Strategic Research Agenda (OSRA) and in the CDP Strategic Context Cases (SCCs).*
- 1b. The Commission shall ensure the coherence of the work programmes throughout the life-cycle management of defence products and technologies.*
2. The Commission shall adopt the work programmes by means of *delegated* acts in accordance with the procedure referred to in Article 28a.
- 2a. The work programmes shall set out in detail the categories of projects to be funded under the Fund. Those work programmes shall be in line with the objectives set out in Article 3.*
- 2b. Based on the work programmes' elaboration process, the Commission shall carry out an upfront assessment of possible duplication cases with existing capabilities or already funded research or development projects within the Union.*

### █ Article 28a

#### *Exercise of Delegation*

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.*
- 2. The power to adopt delegated acts referred to in Article 27 shall be conferred on the Commission for a period of seven years from [date of entry into force].*
- 3. The delegation of power referred to in Article 27 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.*
- 4. Before adopting a delegated act, the Commission shall consult experts designated*

*by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>1</sup>.*

#### Article 29

##### Independent experts

1. The Commission shall appoint independent experts to assist in the evaluation of proposals pursuant to Article [237] of the Financial Regulation. ■
2. Independent experts shall be ■ *citizens of the Union from as broad a range of Member States as possible* identified and selected on the basis of calls for expressions of interest ■ with a view to establishing a list of experts. By derogation from Article [237] of the Financial Regulation, this list shall not be made public, *in full or in part, where it is required on the grounds of the protection of public security*.
3. Independent experts shall have the appropriate security clearance issued by a Member State.
5. Independent experts shall be chosen on the basis of their skills, experience and knowledge appropriate to carry out the tasks assigned to them.
- 5a. *The Commission shall ensure that an expert faced with a conflict of interest in relation to a matter on which the expert is required to provide an opinion does not evaluate, advise or assist on the specific matter in question.*

#### Article 30

##### Application of the rules on classified information

1. Within the scope of this Regulation:
  - (a) each Member State or associated country shall ensure that its national security regulations offer a degree of protection of European Union classified information equivalent to that provided by the rules on security as set out in Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information<sup>2</sup> and by the security rules of the Council set out in the Annexes to Decision 2013/488/EU<sup>3</sup>;
  - (b) Member States and associated countries shall without delay inform the Commission of the national security regulations referred to in point (a);
  - (c) natural persons resident in and legal persons established in non-associated third countries may deal with EU classified information regarding the Fund only where they are subject, in those countries, to security regulations ensuring a

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<sup>1</sup> OJ L 123, 12.5.2016, p. 1.

<sup>2</sup> OJ L 72, 17.3.2015, p. 53–88.

<sup>3</sup> OJ L 274, 15.10.2013, p. 1–50.

degree of protection at least equivalent to that provided by the Commission's rules on security set out in Commission Decision (EU, Euratom) 2015/444 and by the security rules of the Council set out in the Annexes to Decision 2013/488/EU. The equivalence of the security regulations applied in a third country or international organisation shall be defined in a security of information agreement, including industrial security matters if relevant, concluded between the Union and that third country or international organisation in accordance with the procedure provided for in Article 218 TFEU and taking into account Article 13 of Decision 2013/488/EU;

- (d) without prejudice to Article 13 of Decision 2013/488/EU and to the rules governing the field of industrial security as set out in Commission Decision (EU, Euratom) 2015/444, a natural person or legal person, third country or international organisation may be given access to European Union classified information where deemed necessary on a case-by-case basis, according to the nature and content of such information, the recipient's need-to-know and the degree of advantage to the Union.
- 2. When actions involve, require and/or contain classified *or non-classified sensitive* information, the relevant funding body shall specify in the call for proposals/tenders documents the measures and requirements necessary to ensure the security of such information at the requisite level.
  - 3. In order to facilitate exchange of *classified and non-classified* sensitive information between the Commission, the recipients and, where applicable the Member states, the Commission shall set up *a secure* electronic exchange system.

#### Article 31

##### Monitoring and reporting

- 1. Indicators to monitor implementation and progress of the Fund towards the achievement of the general and specific objectives set out in Article 3 are set out in Annex.
- 2. To ensure effective assessment of progress of the Fund towards the achievement of its objectives, the Commission is empowered to adopt delegated acts in accordance with Article 36 to amend the Annex to review or complement the indicators where considered necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework.
- 3. The Commission shall regularly monitor *and evaluate* the implementation of the Fund and annually report *to the European Parliament and the Council* on the progress made. *That annual report shall contain a section on the implementation of Article 7.* To this end, the Commission shall put in place necessary monitoring arrangements.
- 4. The performance reporting system shall ensure that data for monitoring the Fund implementation and results are collected efficiently, effectively and in a timely

fashion. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds.

#### *Article 32* Evaluation of the Fund

1. Evaluations shall be carried out in a timely manner to feed into the decision-making process.
2. The interim evaluation of the Fund shall be performed once there is sufficient information available about the implementation of the Fund, but no later than four years after the start of the Fund implementation. The interim evaluation report *shall* include notably, an assessment of the governance of the Fund, ***the lessons learned from the European Defence Industrial Development Programme and Preparatory Action on Defence Research, an assessment of the implementation of the ethics procedures as referred to in Article 7, implementation rates, project award results including SMEs and mid-caps involvement and the degree of their cross-border participation, the distribution of funding among different categories of subcontractors according to the definition referred to in point 9 of Article 10, the budget allocated to disruptive technologies and funding granted in accordance with Article [195] of the Financial Regulation by 31 July 2024. The interim evaluation shall also contain information on the countries of origin of the recipients, the number of countries involved in individual projects, and, where possible, the distribution of the generated intellectual property rights.*** The Commission may submit proposals for any appropriate amendments to the present regulation.
3. At the end of the implementation period but no later than four years after 31 December 2027, a final evaluation of the Fund implementation shall be carried out by the Commission. The final evaluation report shall include the results of the implementation and to the extent possible given timing the impact of the Fund. The report - building on relevant consultations of Member States and associated countries and key stakeholders - shall notably assess the progress made towards the achievement of objectives set out in Article 3. It shall also analyse cross border participation, including of SMEs and mid-caps in projects implemented under the Fund as well as the integration of SMEs and Mid-caps in the global value chain. The evaluation shall also contain information on the countries of origin of the recipients and, where possible, the distribution of the generated intellectual property rights.
4. The Commission shall communicate the conclusions of the evaluations accompanied by its observations, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

#### *Article 33* Audits

Audits on the use of the Union contribution carried out by persons or entities, including by other than those mandated by the Union Institutions or bodies, shall form the basis of the

overall assurance pursuant to Article [127] of the Financial Regulation. The European Court of Auditors shall examine the accounts of all revenue and expenditure of the Union according to Article 287 TFEU.

#### *Article 34*

##### Protection of the financial interests of the Union

Where a third country participates in the Fund by a decision under an international agreement or by virtue of any other legal instrument, the third country shall grant the necessary rights and access required for the authorising officer responsible, the European Anti-Fraud Office (OLAF), the European Court of Auditors to comprehensively exert their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, provided for in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council concerning investigations conducted by the European Anti-Fraud Office (OLAF).

#### *Article 35*

##### Information, communication and publicity

1. The recipients of Union funding shall acknowledge the origin and ensure the visibility of the Union funding (in particular when promoting the actions and their results) by providing coherent, effective and proportionate targeted information to multiple audiences, including, the media and the public.
2. The Commission shall implement information and communication actions relating to the Fund, and its actions and results. Financial resources allocated to the Fund shall also contribute to the ***Commission's*** communication of the political priorities of the Union, as far as they are related to the objectives referred to in Article 3. ***Those financial resources may be used for projects on statistics on the defence industry and projects to pilot the collection of data.***



# **TITLE V**

## **DELEGATED ACTS, TRANSITIONAL AND FINAL PROVISIONS**

### *Article 36* Delegated acts

1. The power to adopt delegated acts referred to in Article 31 shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Regulation.
2. The delegation of power referred to in Article 31 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
3. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 31 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

### *Article 37* Repeal

6. Regulation (EU) No .../.... (European Defence Industrial Development Programme) is repealed with effect from 1 January 2021.

### *Article 38* Transitional provisions

1. This Regulation shall not affect the continuation or modification of the actions concerned, until their closure, under [European Defence Industrial Development

Programme Regulation] as well as the Preparatory Action for Defence Research, which shall continue to apply to the actions concerned until their closure.

2. The financial envelope of the Fund may also cover technical and administrative assistance expenses necessary to ensure the transition between the Fund and the measures adopted under its predecessors, the [European Defence Industrial Development Programme Regulation] as well as the Preparatory Action for Defence Research.
3. If necessary, appropriations may be entered in the budget beyond 2027 to cover the expenses provided for in Article 4 paragraph 4, to enable the management of actions not completed by 31 December 2027.

#### *Article 39*

#### Entry into force

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*. It shall be applicable as from 1<sup>st</sup> January 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## MINORITY OPINION

**Minority Report tabled by GUE/NGL MEPs *Neoklis Sylikiotis, Sabine Lösing, Sofia Sakorafa, Xabier Benito Ziluaga, Marisa Matias, Cornelia Ernst, Paloma López Bermejo, João Ferreira, João Pimenta Lopes, Miguel Viegas***

The report advocates rapid further militarization of the EU and Member States. Promoting an arms' race, it subsidises military undertakings leveraging increased investments in defence and military research and development of equipment and weaponry, in spite of the social crisis and environmental impact. The report is at odds with Article 41(2) TEU, prohibiting expenditure arising from operations with military or defence implications being charged to the Union budget. It also advocates EU-NATO cooperation.

We object since the report:

- shapes up the EU to be a military global player;

- serves to subsidise the defence sector and the Military Industrial Complex and is likely to increase arms exports;

- militarises civilian policies and uses industry and competitiveness as a pretext to further develop EU - defence capabilities in the framework of CSDP/CFSP;

- supports further civil-military cooperation;

We demand:

- radical disarmament on EU and global level;

- no military funding from the EU-budget and strict interpretation of article 41(2) TEU

- public funds to support quality jobs, reindustrialization and SMEs;

- the promotion of civil research and development serving the people and their needs;

- that all activities be strictly within the UN Charter and International Law;

- strictly civil peaceful conflict solutions and the separation of civil and military actions;

- the separation of the EU from NATO.

14.11.2018

## OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS

for the Committee on Industry, Research and Energy

on the proposal for a regulation of the European Parliament and of the Council establishing the European Defence Fund  
(COM(2018)0476 – C8-0268/2018 – 2018/0254(COD))

Rapporteur for opinion (\*): David McAllister

(\*) Associated committee – Rule 54 of the Rules of Procedure

### AMENDMENTS

The Committee on Foreign Affairs calls on the Committee on Industry, Research and Energy, as the committee responsible, to take into account the following amendments:

#### Amendment 1

##### Proposal for a regulation

##### Recital 2

###### *Text proposed by the Commission*

(2) The Fund would contribute to the establishment of a strong, competitive and innovative defence industrial and technological base and go hand in hand with the Union's initiatives towards a more integrated European Defence Market and in particular, the two Directives<sup>6</sup> on procurement and on EU transfers in the defence sector adopted in 2009.

###### *Amendment*

(2) The Fund would contribute to the establishment of a strong, competitive and innovative defence industrial and technological base and go hand in hand with the Union's initiatives towards a more integrated European Defence Market and in particular, the two Directives<sup>6</sup> on procurement and on EU transfers in the defence sector adopted in 2009. ***The fund will form the cornerstone of a sound European defence industrial policy.***

<sup>6</sup> Directive 2009/43/EC of the European Parliament and of the Council, simplifying terms and conditions of transfers of defence-related products within the Community, OJ L 146, 10.6.2009, p. 1; Directive 2009/81/EC of the European Parliament and of the Council on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, OJ L 216, 20.8.2009, p. 76.

<sup>6</sup> Directive 2009/43/EC of the European Parliament and of the Council, simplifying terms and conditions of transfers of defence-related products within the Community, OJ L 146, 10.6.2009, p. 1; Directive 2009/81/EC of the European Parliament and of the Council on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, OJ L 216, 20.8.2009, p. 76.

## Amendment 2

### Proposal for a regulation

#### Recital 3

##### *Text proposed by the Commission*

(3) Following an integrated approach and in order to contribute to the enhancement of the competitiveness and innovation capacity of the Union's defence industry, a European Defence Fund should be established. The Fund should aim at enhancing the competitiveness, innovation, efficiency and autonomy of the Union's defence industry thereby contributing to the Union's strategic autonomy by supporting the cross border cooperation between Member States and between enterprises, research centres, national administrations, international organisations and universities, in the research phase and in the development phase of defence products and technologies. To achieve more innovative solutions and an open internal market, the Fund should support the cross-border participation of defence small and medium sized enterprises (SMEs) and middle capitalisation companies (mid-caps).

##### *Amendment*

(3) Following an integrated approach and in order to contribute to the enhancement of the competitiveness and innovation capacity of the Union's defence industry, a European Defence Fund should be established. The Fund should aim at enhancing the competitiveness, innovation, efficiency and autonomy of the Union's defence industry thereby contributing to the Union's strategic autonomy, ***the improvement of Member States' defence capabilities and the promotion of the Union's security and defence interests as agreed in the framework of the Common Foreign and Security Policy*** by supporting the cross border cooperation between Member States and between enterprises, research centres, national administrations, international organisations and universities, in the research phase and in the development phase of defence products and technologies. To achieve more innovative solutions and an open internal market, the Fund should support the cross-border participation of defence small and medium sized enterprises (SMEs) and middle capitalisation companies (mid-caps)

*and promote their inclusion in cross-border defence supply chains.*

### Amendment 3

#### Proposal for a regulation

##### Recital 6 a (new)

*Text proposed by the Commission*

*Amendment*

***(6a) The Fund should provide adequate support for research and development actions in the area of disruptive technologies for defence;***

### Amendment 4

#### Proposal for a regulation

##### Recital 9

*Text proposed by the Commission*

*Amendment*

(9) As the objective of the Fund is to support the competitiveness and innovation of the Union defence industry by leveraging and complementing collaborative defence research and technology activities and de-risking the development phase of cooperative projects, actions related to the research and development of a defence product or technology should be eligible to benefit from it. This will also apply to the upgrade, including the interoperability thereof, of existing defence products and technologies.

(9) As the objective of the Fund is to support the competitiveness, ***efficiency*** and innovation of the Union defence industry by leveraging and complementing collaborative defence research and technology activities and de-risking the development phase of cooperative projects, actions related to the research and development of a defence product or technology should be eligible to benefit from it. This will also apply to the upgrade, including the interoperability thereof, of existing defence products and technologies.

### Amendment 5

#### Proposal for a regulation

##### Recital 10

*Text proposed by the Commission*

*Amendment*

(10) Given that the Fund aims particularly at enhancing cooperation between legal entities and Member States

(10) Given that the Fund aims particularly at enhancing cooperation ***and competitiveness*** between legal entities and

across Europe, an action should be eligible for funding only if it is undertaken by a cooperation of at least three legal entities based in at least three different Member States and/or associated countries. At least three of these legal eligible entities established in at least **two** different Member States and/or associated countries should not be effectively controlled, directly or indirectly, by the same entity or should not control each other. In order to boost the cooperation between Member States the Fund may support joint pre-commercial procurement .

Member States across Europe, an action should be eligible for funding only if it is undertaken by a cooperation of at least three legal entities based in at least three different Member States and/or associated countries. At least three of these legal eligible entities established in at least **three** different Member States and/or associated countries should not be effectively controlled, directly or indirectly, by the same entity or should not control each other. In order to boost the cooperation between Member States the Fund may support joint pre-commercial procurement.

## Amendment 6

### Proposal for a regulation Recital 15

#### *Text proposed by the Commission*

(15) In case a development action supported by the Fund is managed by a project manager appointed by Member States or associated countries, the Commission should inform the project manager prior to executing the payment to the recipient so that the project manager can ensure that the time-frames are respected by the recipients. ***Under certain circumstances***, the project manager ***could*** provide the Commission with its observations on the progress of the action so that the Commission can validate whether the conditions to proceed to the payment are fulfilled.

#### *Amendment*

(15) In case a development action supported by the Fund is managed by a project manager appointed by Member States or associated countries, the Commission should inform the project manager prior to executing the payment to the recipient so that the project manager can ensure that the time-frames are respected by the recipients. The project manager ***should*** provide the Commission with its observations on the progress of the action so that the Commission can validate whether the conditions to proceed to the payment are fulfilled.

## Amendment 7

### Proposal for a regulation Recital 21 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

***(21a) Actions with the participation of cross-border SMEs support the opening***

*up of the supply chains and contribute to the objectives of the Fund. Such actions should therefore be eligible for an increased funding rate, which should benefit all entities participating in the consortium.*

## Amendment 8

### Proposal for a regulation Recital 22 a (new)

*Text proposed by the Commission*

*Amendment*

*(22a) In order to respond to increased instability and conflicts in the Union's neighbourhood and to new security risks and geopolitical threats, the Member States and the Union's institutions need to identify common risks and threats and define common security interests, strategies and required capabilities which could be identified via an EU White Book on Security and Defence as well as via established procedures such as the Capability Development Mechanism (CDM);*

## Amendment 9

### Proposal for a regulation Recital 23

*Text proposed by the Commission*

*Amendment*

(23) The promotion of innovation and technological development in the Union defence industry should ***take place in a manner coherent with*** the security and defence interests of the Union. Accordingly, the action's contribution to those interests and to the defence research and capability priorities commonly agreed by Member States should serve as an

(23) The promotion of innovation and technological development in the Union defence industry should *serve* the security and defence interests of the Union ***and the Member States. Taking into account the specific nature of the defence sector, any action in the field of defence industry should be closely coordinated and be coherent with the common foreign and***



award criterion. Within the Union, common defence research and capability shortfalls are identified in the Common Security and Defence Policy (CSDP) framework notably through ***Overarching Strategic Research Agenda*** and the Capability Development ***Plan***. Other Union processes such as the Coordinated Annual Review on Defence and the Permanent Structured Cooperation will support the implementation of relevant priorities through identifying and taking forward opportunities for enhanced cooperation with a view to fulfilling the EU level of ambition on security and defence. Where appropriate, regional and international priorities, including those in the North Atlantic Treaty Organisation context, ***may*** also be taken into account if they are in line with Union priorities and do not prevent any Member State or an associated country from participating, while also taking into account that unnecessary duplication should be avoided.

#### ***security policy and its priorities.***

Accordingly, the action's contribution to those interests and to the defence research and capability priorities commonly agreed by Member States should serve as an award criterion. Within the Union, common defence research and capability shortfalls are identified in the Common Security and Defence Policy (CSDP) framework notably through the Capability Development ***Mechanism (CDM)***. Other Union processes such as the Coordinated Annual Review on Defence and the Permanent Structured Cooperation will support the implementation of relevant priorities through identifying and taking forward opportunities for enhanced cooperation with a view to fulfilling the EU level of ambition on security and defence. Where appropriate, regional and international priorities, including those in the North Atlantic Treaty Organisation context, ***should*** also be taken into account if they are in line with Union priorities and do not prevent any Member State or an associated country from participating, while also taking into account that unnecessary duplication should be avoided.

## **Amendment 10**

### **Proposal for a regulation Recital 24 a (new)**

*Text proposed by the Commission*

*Amendment*

***(24a) The Fund should also take into account the Action Plan on Military Mobility as part of the Connecting Europe Facility, the European Peace Facility to support, among others, the CFSP/CSDP Missions, and the efforts to counter Hybrid Threats that together with the CDP, CARD and PESCO help to coordinate capability planning, development, procurement and operations.***

## Amendment 11

### Proposal for a regulation

#### Recital 25

##### *Text proposed by the Commission*

(25) The Commission will take into account the other activities financed under the Horizon Europe Framework programme in order to avoid unnecessary duplication and ensure the cross-fertilisation between civil and defence research.

##### *Amendment*

(25) The Commission will take into account the other activities financed under the Horizon Europe Framework programme in order to avoid unnecessary duplication, ensure the cross-fertilisation ***and synergy*** between civil and defence research ***and ensure that Horizon Europe remains a purely civil research programme.***

## Amendment 12

### Proposal for a regulation

#### Recital 31

##### *Text proposed by the Commission*

(31) The Commission should establish annual or multiannual work programmes in line with the objectives of the Fund. The Commission should be assisted in the establishment of the work programme by a committee of Member States. In order to benefit from its expertise in the defence sector, the European Defence Agency will be given the status of an observer in the committee. Given the specificities of the defence area, the European External Action Service should also assist in the committee of Member States.

##### *Amendment*

(31) The Commission should establish annual or multiannual work programmes in line with the objectives of the Fund. ***The work programmes should take into account the initial lessons learned from the implementation of the EDIDP, the Pilot Project and the Preparatory Action on Defence Research.*** The Commission should be assisted in the establishment of the work programme by a committee of Member States. In order to benefit from its expertise in the defence sector, the European Defence Agency will be given the status of an observer in the committee. Given the specificities of the defence area, the European External Action Service should also assist in the committee of Member States.

## **Amendment 13**

### **Proposal for a regulation Recital 46 a (new)**

*Text proposed by the Commission*

*Amendment*

***(46 a) Directive 2009/43/EC aims to simplify the terms and conditions for transfers of defence-related products within the Union. That directive alleviates obstacles without sacrificing national control over essential defence and security interests. The use of general transfer licenses for the Fund largely reduces the administrative burden for suppliers intending to participate in the programme. The Commission should be able to act, subject to mandating by Member States and associated third countries, as a central point of contact for registering suppliers, and should be able to regularly publish a list of issued general transfer licenses in the Official Journal of the European Union.***

## **Amendment 14**

### **Proposal for a regulation Recital 46 b (new)**

*Text proposed by the Commission*

*Amendment*

***(46 b) Enterprises, when proposing new defence products or technologies or proposing to re-purpose existing ones, are bound by the applicable legislation. Where no readily applicable legislation exists, they should commit themselves to respecting a body of universal ethical principles relating to the fundamental rights and the welfare of human beings, the protection of the human genome, the treatment of animals, the preservation of the natural environment, the protection of the cultural heritage, and the equitable access to global commons, including space and the cyberspace. The***

*Commission should ensure that proposals are systematically screened to identify those actions raising serious ethics issues and submit them to an ethics assessment. Actions which are not ethically acceptable should not receive Union funding.*

## **Amendment 15**

### **Proposal for a regulation Recital 46 c (new)**

*Text proposed by the Commission*

*Amendment*

*(46 c) The Council should endeavour to establish a decision on the use of armed unmanned aerial vehicles before [31 December 2020]; whereas no funding will be made available for developing armed unmanned aerial vehicles before that decision has entered into force;*

## **Amendment 16**

### **Proposal for a regulation Recital 46 d (new)**

*Text proposed by the Commission*

*Amendment*

*(46 d) The Fund should support developing and assessing disruptive technology for defence which can radically change the concepts and conduct of defence affairs. Game-changing capabilities should be delivered through an innovation ecosystem that includes academia, enterprises and governmental institutions, consistent with defence capability priorities commonly agreed by Member States, especially the revised capability development plan (CDP) and the coordinated annual review on defence (CARD). This will enable the Union to develop capabilities and concepts that draw on technological superiority which would allow the Union*

*to better protect its citizens and to better promote peace, security and progress in Europe and in the world. The Commission should set-up an agile structure for managing the support to developing and assessing disruptive technology for defence.*

## **Amendment 17**

### **Proposal for a regulation Recital 46 e (new)**

*Text proposed by the Commission*

*Amendment*

*(46 e) Unused funds from the military mobility specific objective of the Connecting Europe Facility (CEF) should be used to strengthen the Fund. They should be used to foster military mobility projects where no civilian-military dual-use prospect exists inside the CEF framework, strengthen the support to disruptive technology for defence, and enable funding further actions consistent with defence capability priorities commonly agreed by Member States.*

## **Amendment 18**

### **Proposal for a regulation Recital 46 f (new)**

*Text proposed by the Commission*

*Amendment*

*(46 f) Defence supplies and services originating from non-associated third countries could require export licenses to be issued by those countries' authorities. The Commission, Member States and associated third countries as well as enterprises established in the Union could not have significant influence on such export licensing. Denying or repealing export licenses, or not granting export licenses for follow-on action, might have unacceptable consequences for the*

*security of supply of the European defence sector and for the strategic autonomy of the Union. The Commission should therefore systematically collect information on third country export licenses required for defence fund projects. Enterprises intending to participate in actions funded from the Fund as well as those already participating in those actions should perform risk assessments regarding defence supplies and services originating from third countries, and make their risk assessments available to the Commission. In the event that unacceptable consequences for the security of supply of the European defence sector and for the strategic autonomy of the Union arise, the Commission should immediately inform the High Representative of the Union for Foreign Affairs and Security Policy. They should inform the European Parliament and the Council about any demarches they undertake.*

## **Amendment 19**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 3**

*Text proposed by the Commission*

(3) 'development action' means any action consisting ***primarily*** of defence-oriented activities in the development phase, covering new products or technologies or the upgrading of existing ones, excluding the production or use of weapons;

*Amendment*

(3) 'development action' means any action consisting ***exclusively*** of defence-oriented activities in the development phase, covering new products or technologies or the upgrading of existing ones, excluding the production or use of weapons;

## **Amendment 20**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 17 a (new)**

***(17 a) ‘ethics issue’ means any concern relating to the intended or implied conduct or results of an action which, while being compliant with relevant Union, national and international law contradict principles concerning fundamental rights and the welfare of human beings, the protection of the human genome, the treatment of animals, the preservation of the natural environment, the protection of the cultural heritage, and the equitable access to global commons, including space and the cyberspace.***

## **Amendment 21**

### **Proposal for a regulation Article 3 – paragraph 1**

Text proposed by the Commission

Amendment

1. The general objective of the Fund is to foster the competitiveness, efficiency and innovation capacity of the European defence **industry**, by supporting collaborative actions and cross-border cooperation between legal entities throughout **the Union**, including SMEs and mid-caps as well as fostering the better exploitation of the industrial potential of innovation, research and technological development, at each stage of the **industrial** life cycle, **thus contributing to the Union strategic autonomy**. The Fund should also contribute to the freedom of action of the Union **and its autonomy, in particular in** technological and industrial **terms**.

1. The general objective of the Fund is **to enable the Union to apply its competence to implement a common foreign and security policy, including the progressive framing of a common defence policy, to contribute to the strategic priorities under the CFSP/CSDP framework, and** to foster the **inclusivity, integration, interoperability,** competitiveness, efficiency and innovation capacity of the **technological and industrial base of the** European defence **sector**, by supporting collaborative actions and cross-border cooperation between legal entities throughout **Europe**, including SMEs and mid-caps as well as fostering the better exploitation of the industrial potential of innovation, research and technological development, at each stage of the life cycle **of a defence product or service. It is important that more concrete proposals are put forward on how to improve the cross-border defence market**

*access of SMEs and mid-caps. The Fund should also contribute to the **Union's security and defence interests, to the freedom of action of the Union, to its strategic**, technological and industrial autonomy, as well as to the development and improvement of more advanced Member States' defence capabilities. Taking more responsibility for its own security will also serve NATO.*

## Amendment 22

### Proposal for a regulation

#### Article 3 – paragraph 2 – point a

##### *Text proposed by the Commission*

(a) support collaborative research projects that could significantly boost the performance of future capabilities, aiming at maximising innovation and introducing new defence products and technologies, including disruptive ones;

##### *Amendment*

(a) support collaborative research projects that could significantly boost the performance of future **defence and defence industrial** capabilities, aiming at maximising innovation and introducing new defence products and technologies, including disruptive ones, **including in cyber-defence**;

## Amendment 23

### Proposal for a regulation

#### Article 3 – paragraph 2 – point b

##### *Text proposed by the Commission*

(b) support collaborative development projects of defence products and technologies consistent with defence capability priorities commonly agreed by Member States within the framework of the Common Foreign and Security Policy, thus **contributing to greater** efficiency of defence spending within the Union, achieving greater economies of scale, **reducing the risk of** unnecessary duplication and as such reducing the

##### *Amendment*

(b) support collaborative development projects of defence products and technologies consistent with defence capability priorities commonly agreed by Member States within the framework of the Common Foreign and Security Policy, **and in particular in the context of the Capability Development Mechanism, Permanent Structured Cooperation and the Coordinated Annual Review on Defence**, thus **fostering efficiency gains in**



fragmentation of defence products and technologies throughout the Union. Ultimately, the Fund will lead to greater interoperability between Member States' capabilities.

defence spending within the Union, achieving greater economies of scale, ***eliminating*** unnecessary duplication and ***the over dependence on imports from third countries and*** as such reducing the fragmentation of defence products and technologies throughout the Union. Ultimately, the Fund will lead to greater ***Union strategic autonomy, increasing standardisation and*** interoperability between Member States' capabilities, ***thereby improving the effectiveness of their defence expenditure, and to the effective implementation of a sound European defence industrial policy.***

#### Amendment 24

##### Proposal for a regulation

##### Article 3 – paragraph 2 – point b a (new)

*Text proposed by the Commission*

*Amendment*

***(ba) Encourage European cooperation in the research and defence sectors involving three or more Member States and three or more companies, as specified in Article 11(4).***

#### Amendment 25

##### Proposal for a regulation

##### Article 4 – paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

***5 a. At the end of each year the unused funds for the military mobility specific objective referred to in Article [3(2)(a)(ii)] of Regulation [Connecting Europe Facility] shall be made available for the implementation of the Fund.***

#### Amendment 26

##### Proposal for a regulation

## Article 5 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***Arrangements shall be made in order to enable the fullest possible participation of the United Kingdom in EDF projects.***

## Amendment 27

### Proposal for a regulation Article 6 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. The Commission shall award funding through open and public consultations on the areas of intervention defined in the work programmes.

1. The Commission shall award funding through open and public consultations on the areas of intervention defined in the work programmes ***taking into consideration the Capability Development Mechanism (CDM).***

## Amendment 28

### Proposal for a regulation Article 7 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. Proposals shall be systematically screened to identify those actions raising complex or serious ethics issues and submit them to an ethics assessment. Ethics screenings and assessments shall be carried out by the Commission with the support of experts on defence ethics. The Commission shall ensure the transparency of the ethics procedures as much as possible.

2. Proposals shall be systematically screened to identify those actions raising complex or serious ethics issues and submit them to an ethics assessment. Ethics screenings and assessments shall be carried out by the Commission with the support of ***defence*** experts on defence ethics. ***All experts shall be required to be validated by the Member State that has issued their security clearance. The appropriate security clearance shall be required before appointment.*** The Commission shall ensure the transparency of the ethics procedures as much as possible.

## Amendment 29

### Proposal for a regulation Article 7 a (new)

*Text proposed by the Commission*

*Amendment*

#### *Article 7 a*

##### *General Transfer Licenses*

- 1. Member States and associated third countries shall publish general transfer licences directly granting authorisation to suppliers established on their territory to participate in the projects under the Fund. Member States and associated third countries may lay down conditions for registration prior to first use of a general transfer licence.*
- 2. The Commission shall ensure that the necessary conditions for the use of the general transfer licenses exist and shall publish all relevant information in the work programmes.*

## Amendment 30

### Proposal for a regulation Article 9 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. An action that has received a contribution from another Union programme may also receive a contribution under the Fund, provided that the contributions do not cover the same costs. The rules of each contributing Union programme/Fund shall apply to its respective contribution to the action. The cumulative funding shall not exceed the total eligible costs of the action and the support from the different Union programmes may be calculated on a pro-rata basis in accordance with the documents setting out the conditions for support.

1. An action that has received a contribution from another Union programme, ***and in particular from the Horizon Europe Framework programme or from the CEF for the adaptation of the TEN-T networks to military mobility needs***, may also receive a contribution under the Fund, provided that the contributions do not cover the same costs. The rules of each contributing Union programme/Fund shall apply to its respective contribution to the action. The cumulative funding shall not exceed the total eligible costs of the action and the support from the different Union programmes may be calculated on a pro-

rata basis in accordance with the documents setting out the conditions for support.

## Amendment 31

### Proposal for a regulation Article 10 – paragraph 1

#### *Text proposed by the Commission*

1. Applicants and their subcontractors shall be eligible for funding provided that they are established in the Union or in an associated country, have their executive management structures in the Union or in an associated country and are not controlled by a non-associated third country or by a non-associated third country entity.

#### *Amendment*

1. Applicants and subcontractors ***involved in the action*** shall be eligible for funding provided that they are established in the Union or in an associated country, have their executive management structures in the Union or in an associated country and are not controlled by a non-associated third country or by a non-associated third country entity.

## Amendment 32

### Proposal for a regulation Article 10 – paragraph 2 – introductory part

#### *Text proposed by the Commission*

2. By derogation from paragraph 1, an applicant established in the Union or in an associated country and controlled by a non-associated third country or a non-associated third country entity may ***be*** eligible for funding if this is necessary for achieving the objectives of the ***action*** and provided that its participation will not put at risk the security interests of the Union and its Member States. In order to ensure protection of the security interests of the Union and its Member States, the call for proposals shall require the applicant to provide ***information demonstrating notably*** that:

#### *Amendment*

2. By derogation from paragraph 1, an applicant ***or a subcontractor involved in the action*** established ***and having its executive management structure*** in the Union or in an associated country and controlled by a non-associated third country or a non-associated third country entity may ***constitute an eligible entity*** for funding if this is necessary for achieving the objectives of the ***programme*** and provided that its participation will not put at risk the security ***and defence*** interests of the Union and its Member States, ***or the objective set out in Article 3***. In order to ensure protection of the security interests of the Union and its Member States, the call for proposals shall require the

applicant to provide *guarantees approved by the Member State in which the applicant is located and to commit to implement measures before the beginning of the action ensuring* that:

## Amendment 33

### Proposal for a regulation

#### Article 10 – paragraph 2 – point c

##### *Text proposed by the Commission*

(c) the results of the action shall remain within the beneficiary and shall not be subject to control or restrictions by non-associated third countries or other non-associated third country entities during *the action* and *for a specified period* after its completion;

##### *Amendment*

(c) the results of the action shall remain within the beneficiary and shall not be subject to control or restrictions by non-associated third countries or other non-associated third country entities *and cannot be exported or given access outside the Union without the approval of the Member State in which the undertaking is established in*, during and after its completion;

## Amendment 34

### Proposal for a regulation

#### Article 10 – paragraph 3

##### *Text proposed by the Commission*

3. All infrastructure, facilities, assets and resources used in actions financed under the Fund shall be located on the territory of the Union or associated countries. Furthermore, when performing an eligible action, beneficiaries and their subcontractors shall cooperate *only* with legal entities established in the Union or in an associated country and not controlled by non-associated third countries or non-associated third country entities.

##### *Amendment*

3. All infrastructure, facilities, assets and resources used in actions financed under the Fund shall be located on the territory of the Union or associated countries *and shall not be subject to any control or restriction by a non-associated third country or by a non-associated third entity*. Furthermore, when performing an eligible action, beneficiaries and their subcontractors shall cooperate with legal entities established in the Union or in an associated country and not controlled by non-associated third countries or non-

associated third country entities.

## Amendment 35

### Proposal for a regulation Article 10 – paragraph 4

#### *Text proposed by the Commission*

4. By derogation from the paragraph 3 beneficiaries and subcontractors involved in the action may use their assets, infrastructure, facilities and resources located or held on the territory of a non-associated third country if this is necessary for achieving the objectives of an action and provided that this will not put at risk the security of the Union and its Member States. Under the same conditions, when performing an eligible action, beneficiaries and their subcontractors may cooperate with an entity established in a non-associated third country. The costs related to the use of such infrastructure, facilities, assets or resources and to such cooperation shall not be eligible under the Fund.

#### *Amendment*

4. By derogation from the paragraph 3, ***if there are no competitive substitutes readily available in the Union, and if this usage would not contravene the security and defence interests of the Union and its Member States***, beneficiaries and subcontractors involved in the action may use their assets, infrastructure, facilities and resources located or held on the territory of a non-associated third country if this is necessary for achieving the objectives of an action and provided that this will not put at risk the security ***and the defence interests*** of the Union and its Member States. Under the same conditions, when performing an eligible action, beneficiaries and their subcontractors may cooperate with an entity established in a non-associated third country. The costs related to the use of such infrastructure, facilities, assets or resources and to such cooperation shall not be eligible under the Fund.

## Amendment 36

### Proposal for a regulation Article 10 – paragraph 9

#### *Text proposed by the Commission*

9. For the purpose of this Article, subcontractors means subcontractors with a direct contractual relationship to a beneficiary, other subcontractors to which at least 10% of the total eligible costs of

#### *Amendment*

9. For the purpose of this Article, subcontractors means subcontractors with a direct contractual relationship to a beneficiary, other subcontractors to which at least 10% of the total eligible costs of

the action is allocated, and subcontractors which may require access to classified information according to Commission Decision (EU, Euratom) 2015/444 in order to carry out the action.

the action is allocated, subcontractors which may require access to classified information according to Commission Decision (EU, Euratom) 2015/444 in order to carry out the action ***and subcontractors which need to apply for an export licence in a non-associated third country.***

## Amendment 37

### Proposal for a regulation Article 11 – paragraph 4

#### *Text proposed by the Commission*

4. ***Unless otherwise provided for in the work programme referred to in Article 27,*** the action shall be undertaken in a cooperation of at least three legal entities which are established in at least three different Member States and/or associated countries. At least three of these eligible entities established in at least ***two*** Member States and/or associated countries shall not, during the whole implementation of the action, be effectively controlled, directly or indirectly, by the same entity, and shall not control each other.

#### *Amendment*

4. The action shall be undertaken in a cooperation of at least three legal entities which are established in at least three different Member States and/or associated countries. ***Every consortium that includes legal entities from an associated country shall also include at least two legal entities from two different Member States.*** At least three of these eligible entities established in at least three Member States and/or associated countries shall not, during the whole implementation of the action, be effectively controlled, directly or indirectly, by the same entity, and shall not control each other.

## Amendment 38

### Proposal for a regulation Article 11 – paragraph 6

#### *Text proposed by the Commission*

6. Actions for the development of products and technologies the use, development or production of which is prohibited by applicable international law shall not be eligible.

#### *Amendment*

6. Actions for the development of products and technologies the use, development or production of which is prohibited by applicable international law shall not be eligible. ***In particular, the programme shall not fund incendiary weapons including white phosphorus,***

*depleted uranium ammunitions, lethal autonomous weapons without meaningful human control over the critical functions of selecting and attacking individual targets, small arms and light weapons mainly developed for export purposes, i.e. where no Member State has expressed a requirement for the action to be carried out.*

#### **Amendment 39**

##### **Proposal for a regulation**

##### **Article 13 – paragraph 1 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

*(aa) contribution to the industrial autonomy of the European defence industry and to the security and defence interests of the Union by enhancing defence technologies or products in line with defence capability priorities agreed by Member States within the framework of the Common Foreign and Security Policy;*

#### **Amendment 40**

##### **Proposal for a regulation**

##### **Article 13 – paragraph 1 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

*(da) number of countries and companies involved;*

#### **Amendment 41**

##### **Proposal for a regulation**

##### **Article 13 – paragraph 1 – point e**

*Text proposed by the Commission*

*Amendment*

(e) contribution to the creation of new cross-border cooperation between legal

(e) contribution to the creation of new cross-border cooperation between legal



entities, in particular for SMEs *which are established in Member States and/or associated countries other than those where the entities in the consortium which are not SMEs are established*;

entities, in particular for SMEs;

#### Amendment 42

##### Proposal for a regulation

##### Article 14 – paragraph 3 – point d

*Text proposed by the Commission*

(d) *the overall increase in the funding rate of an action shall not exceed 30 percentage points.*

*Amendment*

(d) *an action developed by Member States or associated third countries which meet the 2% GDP target to be spent on defence, or which spend 20% of their defence budgets on major equipment, shall benefit from a funding rate increased by their cumulated GDP percentage points spent on defence;*

#### Amendment 43

##### Proposal for a regulation

##### Article 16 – paragraph 1

*Text proposed by the Commission*

1. Indirect eligible costs shall be determined *by applying a flat rate of 25 % of the total direct eligible costs*, excluding direct eligible costs for subcontracting, financial support to third parties and any unit costs or lump sums which include indirect costs.

*Amendment*

1. *Where appropriate* indirect eligible costs shall be determined *on a case by case basis* excluding direct eligible costs for subcontracting, financial support to third parties and any unit costs or lump sums which include indirect costs.

#### Amendment 44

##### Proposal for a regulation

##### Article 16 – paragraph 2

*Text proposed by the Commission*

2. *Where appropriate*, indirect eligible costs beyond the flat rate of 25 %

*Amendment*

2. *As an alternative*, indirect eligible costs beyond the flat rate of 25% may be

may be determined in accordance with the beneficiary's usual cost accounting practices on the basis of actual indirect costs provided that these cost accounting practices are accepted by national authorities under comparable funding schemes in accordance with Article [185] of the Financial Regulation and communicated to the Commission.

determined in accordance with the beneficiary's usual cost accounting practices on the basis of actual indirect costs provided that these cost accounting practices are accepted by national authorities under comparable funding schemes in accordance with Article [185] of the Financial Regulation and communicated to the Commission.

## **Amendment 45**

### **Proposal for a regulation Article 22 – paragraph 2**

#### *Text proposed by the Commission*

2. If Union assistance is provided in the form of public procurement, results shall be owned by the Union. Member States and associated countries shall enjoy access rights to the results, free of charge, upon their explicit request.

#### *Amendment*

2. If Union assistance is provided in the form of public procurement ***of a study***, results shall be owned by the Union. Member States and associated countries shall enjoy access rights to the results, free of charge, upon their explicit request.

## **Amendment 46**

### **Proposal for a regulation Article 22 – paragraph 4**

#### *Text proposed by the Commission*

4. The grant agreement shall, if justified, lay down the right of the Commission to be notified of and object to the transfer of ownership to results or to the granting of a license regarding results to a non-associated third country or a non-associated third country entity. Such transfers shall not contravene the defence and security interests of the Union and its Member States or the objectives of this Regulation as set out in Article 3.

#### *Amendment*

4. The grant agreement shall, if justified, lay down the right of the Commission to be notified of and object to the transfer of ownership to results or to the granting of a license regarding results to a non-associated third country or a non-associated third country entity. Such transfers shall not contravene the defence and security interests of the Union and its Member States or the objectives of this Regulation as set out in Article 3.  
***These provisions do not affect the export of products, equipment nor technologies integrating results, and no dot affect the discretion of Member States and associated countries regarding policy on***

*the export of defence and related products.*

#### Amendment 47

##### Proposal for a regulation

##### Article 22 – paragraph 5

*Text proposed by the Commission*

5. The national authorities of Member States and associated countries shall enjoy access rights to the special report of a project that has received Union funding. Such access rights shall be granted on a royalty-free basis and transferred by the Commission to the Member States and associated countries after ensuring that appropriate confidentiality obligations are in place.

*Amendment*

5. The national authorities of Member States and associated countries shall enjoy access rights to the special report of a project that has received Union funding. ***The capacity to manage classified information and the need to know about military projects shall be fully preserved and only the information strictly necessary for the evaluation of the project shall be transmitted.*** Such access rights shall be granted on a royalty-free basis and transferred by the Commission to the Member States and associated countries after ensuring that appropriate confidentiality obligations are in place.

#### Amendment 48

##### Proposal for a regulation

##### Article 24 – paragraph 1 – point b a (new)

*Text proposed by the Commission*

*Amendment*

***(b a) the intended procurement volume and the expected effect on Member States' defence capabilities and expenditure, and the European Strategic Autonomy.***

#### Amendment 49

##### Proposal for a regulation

##### Article 27 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. The Fund shall be implemented by

1. The Fund shall be implemented by

annual or multi annual work programmes established in accordance with Article [110] of the Financial Regulation. Work programmes shall set out, where applicable, the overall amount reserved for blending operations.

annual or multi annual work programmes established in accordance with Article [110] of the Financial Regulation. Work programmes shall set out, where applicable, the overall amount reserved for blending operations *as well as for the cross border participation of SMEs. For the establishment of the work programme input from the Capability Development Mechanism (CDM) shall be taken into consideration.*

## **Amendment 50**

### **Proposal for a regulation Article 27 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. During the elaboration of the work programmes, and before the award of funding, the Commission shall ensure, through appropriate consultations with the Committee, that the proposed research or development actions avoid duplication with existing capabilities or already funded research or development projects within the Union. In the event that a duplication is identified, the Commission shall carry out further consultations.***

## **Amendment 51**

### **Proposal for a regulation Article 27 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***1b. The work programmes shall set out the categories of projects to be funded under the Programmes. Those categories shall be in line with the defence priorities referred to in Article 3.***

## **Amendment 52**

**Proposal for a regulation**  
**Article 28 – paragraph 1**

*Text proposed by the Commission*

1. The Commission shall be assisted by a committee within the meaning of Regulation (EU) No 182/2011. The European Defence Agency shall be invited as an observer to provide its views and expertise. The European External Action Service shall also be invited to assist.

*Amendment*

1. The Commission shall be assisted by a committee within the meaning of Regulation (EU) No 182/2011. The European Defence Agency shall be invited as an observer to provide its views and expertise. The European External Action Service shall also be invited to assist. ***The Committee shall also meet in special configurations, including in order to discuss defence and security aspects;***

**Amendment 53**

**Proposal for a regulation**  
**Article 28 – paragraph 2**

*Text proposed by the Commission*

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

*Amendment*

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. ***Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5 (4) of Regulation (EU) No 182/2011 shall apply.***

**Amendment 54**

**Proposal for a regulation**  
**Article 29 – paragraph 2**

*Text proposed by the Commission*

2. Independent experts shall be ***Union's citizens*** identified ***and selected*** on the basis of calls for expressions of interest addressed to relevant organisations such as Ministries of Defence and subordinated agencies, research institutes, universities, business associations or enterprises of the defence sector with a view to establishing a

*Amendment*

2. Independent experts shall be identified on the basis of ***excellence based on*** calls for expressions of interest addressed to relevant organisations such as Ministries of Defence and subordinated agencies, research institutes, universities, business associations or enterprises of the defence sector with a view to establishing a

list of experts. By derogation from Article [237] of the Financial Regulation, this list shall not be made public.

list of experts. By derogation from Article [237] of the Financial Regulation, this list shall not be made public.

## Amendment 55

### Proposal for a regulation Article 29 – paragraph 5

#### *Text proposed by the Commission*

5. Independent experts shall be chosen on the basis of their skills, experience and knowledge appropriate to carry out the tasks assigned to them.

#### *Amendment*

5. Independent experts shall be chosen **by the European Commission** on the basis of their skills, experience and knowledge appropriate to carry out the tasks assigned to them.

## Amendment 56

### Proposal for a regulation Article 31 – paragraph 3

#### *Text proposed by the Commission*

3. The Commission shall regularly monitor the implementation of the Fund and annually report on the progress made. To this end, the Commission shall put in place necessary monitoring arrangements.

#### *Amendment*

3. The Commission shall regularly monitor **and evaluate** the implementation of the Fund and annually report **to the Parliament and the Council** on the progress made. To this end, the Commission shall put in place necessary monitoring arrangements.

## Amendment 57

### Proposal for a regulation Article 32 – paragraph 2

#### *Text proposed by the Commission*

2. The interim evaluation of the Fund shall be performed once there is sufficient information available about the implementation of the Fund, but no later than four years after the start of the Fund implementation. The interim evaluation report will include notably, an assessment

#### *Amendment*

2. The interim evaluation of the Fund shall be performed once there is sufficient information available about the implementation of the Fund, but no later than four years after the start of the Fund implementation. The interim evaluation report will include notably, an assessment

of the governance of the Fund, implementation rates, project award results including SMEs and mid-caps involvement and the degree of their cross-border participation, and funding granted in accordance with Article [195] of the Financial Regulation by 31 July 2024. The Commission may submit proposals for any appropriate amendments to the present regulation.

of the governance of the Fund, ***the number of countries involved in individual projects***, implementation rates, project award results including SMEs and mid-caps involvement and the degree of their cross-border participation, and funding granted in accordance with Article [195] of the Financial Regulation by 31 July 2024. The Commission may submit proposals for any appropriate amendments to the present regulation.

## **Amendment 58**

### **Proposal for a regulation Article 35 – paragraph 2**

#### *Text proposed by the Commission*

2. The Commission shall implement information and communication actions relating to the Fund, and its actions and results. Financial resources allocated to the Fund shall also contribute to the corporate communication of the political priorities of the Union, as far as they are related to the objectives referred to in Article 3.

#### *Amendment*

2. The Commission shall implement information and communication actions relating to the Fund, and its actions and results. Financial resources allocated to the Fund shall also contribute to the corporate communication of the political priorities of the Union, as far as they are related to the objectives referred to in Article 3, ***and set-up and maintain a standing stakeholder conference on the development of a common European armaments and capability policy.***

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Establishing the European Defence Fund
<b>References</b>	COM(2018)0476 – C8-0268/2018 – 2018/0254(COD)
<b>Committee responsible</b> Date announced in plenary	ITRE 2.7.2018
<b>Opinion by</b> Date announced in plenary	AFET 2.7.2018
<b>Associated committees - date announced in plenary</b>	5.7.2018
<b>Rapporteur</b> Date appointed	David McAllister 27.8.2018
<b>Discussed in committee</b>	6.9.2018
<b>Date adopted</b>	12.11.2018
<b>Result of final vote</b>	<div style="display: flex; justify-content: space-between;"> <span>+: 36</span> </div> <div style="display: flex; justify-content: space-between;"> <span>–: 16</span> </div> <div style="display: flex; justify-content: space-between;"> <span>0: 3</span> </div>
<b>Members present for the final vote</b>	Michèle Alliot-Marie, Petras Auštrevičius, Bas Belder, Elmar Brok, Klaus Buchner, James Carver, Lorenzo Cesa, Aymeric Chauprade, Javier Couso Permuy, Arnaud Danjean, Knut Fleckenstein, Eugen Freund, Michael Gahler, Tunne Kelam, Wajid Khan, Eduard Kukan, Arne Lietz, Barbara Lochbihler, Sabine Lösing, Andrejs Mamikins, David McAllister, Francisco José Millán Mon, Clare Moody, Pier Antonio Panzeri, Ioan Mircea Pașcu, Alojz Peterle, Tonino Picula, Julia Pitera, Cristian Dan Preda, Jozo Radoš, Michel Reimon, Jean-Luc Schaffhauser, Anders Sellström, Jordi Solé, Dobromir Sośnierz, Jaromír Štětina, Charles Tannock, Miguel Urbán Crespo, Ivo Vajgl
<b>Substitutes present for the final vote</b>	Andrea Bocskor, Igor Gräzin, Rebecca Harms, Marek Jurek, Juan Fernando López Aguilar, Antonio López-Istúriz White, Urmas Paet, Bodil Valero, Mirja Vehkaperä, Marie-Christine Vergiat
<b>Substitutes under Rule 200(2) present for the final vote</b>	Inés Ayala Sender, Eleonora Evi, Rupert Matthews, Miroslav Mikolášik, Liliana Rodrigues, Flavio Zanonato



## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

36	+
ALDE	Petras Auštrevičius, Igor Gräzin, Urmas Paet, Jozo Radoš, Ivo Vajgl, Mirja Vehkaperä
EFDD	Aymeric Chauprade, Eleonora Evi
PPE	Michèle Alliot-Marie, Andrea Bocskor, Elmar Brok, Lorenzo Cesa, Arnaud Danjean, Michael Gahler, Tunne Kelam, Eduard Kukan, Antonio López-Istúriz White, David McAllister, Miroslav Mikolášik, Francisco José Millán Mon, Alojz Peterle, Julia Pitera, Cristian Dan Preda, Anders Sellström, Jaromír Štětina
S&D	Inés Ayala Sender, Knut Fleckenstein, Wajid Khan, Juan Fernando López Aguilar, Andrejs Mamikins, Clare Moody, Pier Antonio Panzeri, Ioan Mircea Pașcu, Tonino Picula, Liliana Rodrigues, Flavio Zanonato

16	-
ECR	Bas Belder, Marek Jurek, Rupert Matthews
ENF	Jean-Luc Schaffhauser
GUE/NGL	Javier Couso Permuy, Sabine Lösing, Miguel Urbán Crespo, Marie-Christine Vergiat
NI	James Carver, Dobromir Sośnierz
S&D	Arne Lietz
VERTS/ALE	Klaus Buchner, Barbara Lochbihler, Michel Reimon, Jordi Solé, Bodil Valero

3	0
ECR	Charles Tannock
S&D	Eugen Freund
VERTS/ALE	Rebecca Harms

Key to symbols:

+ : in favour

- : against

0 : abstention

6.11.2018

## OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Industry, Research and Energy

on the proposal for a regulation of the European Parliament and of the Council establishing the European Defence Fund  
(COM(2018)0476 – C8-0268/2018 – 2018/0254(COD))

Rapporteur for opinion: Alain Lamassoure

### AMENDMENTS

The Committee on Budgets calls on the Committee on Industry, Research and Energy, as the committee responsible, to take into account the following amendments:

#### Amendment 1

##### **Proposal for a regulation** **Recital –1 (new)**

*Text proposed by the Commission*

*Amendment*

***(-1) Defence is considered to be a clear example of how a greater effectiveness could be achieved by transferring some competences and actions currently performed by the Member States and the corresponding appropriations to the European level; this would result in the demonstration of the European added value and would allow to limit the overall burden of public expenditure in the EU.***

#### Amendment 2

**Proposal for a regulation**  
**Recital 1 a (new)**

*Text proposed by the Commission*

*Amendment*

**(1a) On 14 March and 30 May 2018, the European Parliament stressed in its resolution on the 2021-2027 Multiannual Financial Framework(MFF) the importance of horizontal principles that should underpin the MFF2021-2027 and all related EU policies; the parliament reaffirmed, in this context, its position that the EU must deliver on its commitment to be a frontrunner in implementing the UN Sustainable Development Goals (SDGs) and deplored the lack of a clear and visible commitment to that end in the MFF proposals; therefore, the Parliament requested the mainstreaming of the SDGs into all EU policies and initiatives of the next MFF; it further emphasised that the elimination of discrimination is vital to fulfil the EU's commitments towards an inclusive Europe; therefore asked for gender mainstreaming and gender equality commitments in all EU policies and initiatives of the next MFF; underlined in its position that, following the Paris Agreement, climate-related horizontal spending should be significantly increased in comparison with the current MFF and reach 30 % as soon as possible and at the latest by 2027.**

**Amendment 3**

**Proposal for a regulation**  
**Recital 1 b (new)**

*Text proposed by the Commission*

*Amendment*

**(1b) Recalls its resolution of 14 March 2018 on the next MFF: Preparing the Parliament's position on the MFF post-2020; reiterates its support for the creation of a European Defence Union,**

*with a specific research programme in the area of defence of the Union and an industrial development programme in which Member States invest, in order to eliminate duplication and increase the strategic autonomy and efficiency of the European defence industry; reiterates that the Union can be stronger and more ambitious only if additional financial means are made available to it; calls, therefore, for ongoing support to be provided in the context of existing policies which increase resources for the Union's flagship programmes, and for additional responsibilities to be matched with additional financial means;*

#### **Amendment 4**

##### **Proposal for a regulation Recital 2**

###### *Text proposed by the Commission*

(2) The Fund would contribute to the establishment of a strong, competitive and innovative defence industrial and technological base and go hand in hand with the Union's initiatives towards a more integrated European Defence Market and in particular, the two Directives<sup>6</sup> on procurement and on EU transfers in the defence sector adopted in 2009.

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<sup>6</sup> Directive 2009/43/EC of the European Parliament and of the Council, simplifying terms and conditions of transfers of defence-related products within the Community, OJ L 146, 10.6.2009, p. 1; Directive 2009/81/EC of the European Parliament and of the Council on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of

###### *Amendment*

(2) The Fund would contribute to the establishment of a strong, competitive and innovative defence industrial and technological base and go hand in hand with the Union's initiatives towards a more integrated European Defence Market and in particular, the two Directives<sup>6</sup> on procurement and on EU transfers in the defence sector adopted in 2009. ***The fund will form a cornerstone of a sound European defence industrial policy.***

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<sup>6</sup> Directive 2009/43/EC of the European Parliament and of the Council, simplifying terms and conditions of transfers of defence-related products within the Community, OJ L 146, 10.6.2009, p. 1; Directive 2009/81/EC of the European Parliament and of the Council on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of

defence and security, OJ L 216, 20.8.2009, p. 76.

defence and security, OJ L 216, 20.8.2009, p. 76.

## Amendment 5

### Proposal for a regulation

#### Recital 6 a (new)

*Text proposed by the Commission*

*Amendment*

**(6a) The Fund should provide adequate support for research and development actions in the area of disruptive technologies for defence;**

## Amendment 6

### Proposal for a regulation

#### Recital 12

*Text proposed by the Commission*

*Amendment*

(12) As the Fund aims at enhancing the competitiveness, efficiency and autonomy of the Union's defence industry, only entities established in the Union or associated countries and not subject to control by non-associated third countries or non-associated third country entities should **in principle** be eligible for support. Additionally, in order to ensure the protection of essential security and defence interests of the Union and its Member States, the infrastructure, facilities, assets and resources used by the recipients and their subcontractors in actions supported by the Fund should not be located on the territory of non-associated third countries.

(12) As the Fund aims at enhancing the competitiveness, efficiency and autonomy of the Union's defence industry, only entities established in the Union or associated countries and not subject to control by non-associated third countries or non-associated third country entities should be eligible for support. Additionally, in order to ensure the protection of essential security and defence interests of the Union and its Member States, **the registered offices**, the infrastructure, facilities, assets and resources used by the recipients and their subcontractors in actions supported by the Fund should not be located on the territory of non-associated third countries.

## Amendment 7

### Proposal for a regulation

#### Recital 21 a (new)

*Text proposed by the Commission*

*Amendment*

*(21a) Actions with the participation of cross-border SMEs support the opening up of the supply chains and contribute to the objectives of the Fund. Such actions should therefore be eligible for an increased funding rate which should benefit all entities participating in the consortium.*

## Amendment 8

### Proposal for a regulation Recital 34

*Text proposed by the Commission*

(34) The Commission should endeavour to maintain dialogue with Member States and industry to ensure the success of the Fund.

*Amendment*

(34) The Commission should endeavour to maintain dialogue with ***the European Parliament***, Member States and industry to ensure the success of the Fund.

## Amendment 9

### Proposal for a regulation Recital 40

*Text proposed by the Commission*

(40) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016, there is a need to evaluate this regulation on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the regulation on the ground. The Commission should carry out an interim evaluation no later than ***four*** years after the start of the Fund implementation and a final evaluation at the end of the implementation period of the Fund, examining the financial activities in terms of financial implementation results and to the extent possible at that point in

*Amendment*

(40) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016, there is a need to evaluate this regulation on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the regulation on the ground. The Commission should carry out an interim evaluation no later than ***two*** years after the start of the Fund implementation and a final evaluation at the end of the implementation period of the Fund, examining the financial activities in terms of financial implementation results and to the extent possible at that point in

time, results and impact. This report should also analyse the cross-border participation of SMEs and mid-caps in projects supported by the Fund as well as the participation of SMEs and mid-caps to the global value chain. The Commission may also propose amendments to this Regulation to react on possible developments during the implementation of the Fund.

time, results and impact. This report should also analyse the cross-border participation of SMEs and mid-caps in projects supported by the Fund as well as the participation of SMEs and mid-caps to the global value chain. The Commission may also propose amendments to this Regulation to react on possible developments during the implementation of the Fund.

## **Amendment 10**

### **Proposal for a regulation**

#### **Recital 41**

*Text proposed by the Commission*

(41) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals, this Fund will contribute to mainstream climate action in the Union's policies and to the achievement of an overall target of 25 % of the EU budget expenditures supporting climate objectives. Relevant actions will be identified during the Fund's preparation and implementation, and reassessed in the context of its mid-term evaluation.

*Amendment*

(41) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals, this Fund will contribute to mainstream climate action in the Union's policies and to the achievement of an overall target of 25 % of the EU budget expenditures supporting climate objectives ***over the MFF 2021-2027 period, and an annual target of 30 % as soon as possible and at the latest by 2027.*** Relevant actions will be identified during the Fund's preparation and implementation, and reassessed in the context of its mid-term evaluation.

## **Amendment 11**

### **Proposal for a regulation**

#### **Recital 46 a (new)**

*Text proposed by the Commission*

*Amendment*

***(46a) The Commission should establish and maintain a standing stakeholder conference on the development of a common European armaments and capability policy. Twice a year this***

*conference should be an open forum for an exchange between all defence stakeholders where the European armaments and capability policy stands and how it could develop in the future.*

## Amendment 12

### Proposal for a regulation

#### Article 3 – paragraph 2 – point b

*Text proposed by the Commission*

(b) support collaborative development projects of defence products and technologies consistent with defence capability priorities commonly agreed by Member States within the framework of the Common Foreign and Security Policy, thus contributing to greater efficiency of defence spending within the Union, achieving greater economies of scale, reducing the risk of unnecessary duplication and as such reducing the fragmentation of defence products and technologies throughout the Union. Ultimately, the Fund will lead to greater interoperability between Member States' capabilities.

*Amendment*

(b) support collaborative development projects of defence products and technologies consistent with defence capability priorities commonly agreed by Member States within the framework of the Common Foreign and Security Policy, thus contributing to greater efficiency of defence spending within the Union, achieving greater economies of scale, reducing the risk of unnecessary duplication and as such reducing the fragmentation of defence products and technologies throughout the Union. Ultimately, the Fund will lead to greater interoperability between Member States' capabilities *and to the effective implementation of a sound European defence industrial policy.*

## Amendment 13

### Proposal for a regulation

#### Article 4 – paragraph 1

*Text proposed by the Commission*

1. The financial envelope for the implementation of the European Defence Fund for the period 2021 – 2027 shall be EUR 13 000 000 000 in current prices.

*Amendment*

1. The financial envelope for the implementation of the European Defence Fund for the period 2021 – 2027 shall be **EUR 11 453 260 000 in 2018 prices** (EUR 13 000 000 000 in current prices).



## Amendment 14

### Proposal for a regulation

#### Article 4 – paragraph 2 – point a

*Text proposed by the Commission*

(a) up to EUR 4 100 000 000 for research actions;

*Amendment*

(a) up to **EUR 3 612 182 000 in 2018 prices** (EUR 4 100 000 000 **in current prices**) for research actions;

## Amendment 15

### Proposal for a regulation

#### Article 4 – paragraph 2 – point b

*Text proposed by the Commission*

(b) up to EUR 8 900 000 000 for development actions.

*Amendment*

(b) up to **EUR 7 841 078 000 in 2018 prices** (EUR 8 900 000 000 **in current prices**) for development actions.

## Amendment 16

### Proposal for a regulation

#### Article 4 – paragraph 4

*Text proposed by the Commission*

4. Up to **5** % of the financial envelope referred to in paragraph 1 shall be devoted to support disruptive technologies for defence.

*Amendment*

4. Up to **10** % of the financial envelope referred to in paragraph 1 shall be devoted to support disruptive technologies for defence.

## Amendment 17

### Proposal for a regulation

#### Article 4 – paragraph 5

*Text proposed by the Commission*

5. Resources allocated to Member States under shared management may, at their request, be transferred to the Fund. The Commission shall implement those resources directly in accordance with Article [62(1)(a)] of the Financial

*Amendment*

5. Resources allocated to Member States under shared management may, at their request, be transferred to the Fund. The Commission shall implement those resources directly in accordance with Article [62(1)(a)] of the Financial

Regulation. *Where possible* those resources shall be used for the benefit of the Member State concerned.

Regulation. Those resources shall be used for the benefit of the Member State concerned. *Those resources shall be counted over and on top of the amount referred to in paragraph 1.*

## Amendment 18

### Proposal for a regulation Article 4 – paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

**5a.** *The reference amount specified in the present legislative proposal constitutes only an indication to the legislative authority and cannot be fixed until agreement is reached on the regulation on the Multiannual Financial Framework.*

## Amendment 19

### Proposal for a regulation Article 5 – paragraph 1

*Text proposed by the Commission*

*Amendment*

The Fund shall be open to the European Free Trade Association (EFTA) members which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the EEA agreement.

The Fund shall be open to the European Free Trade Association (EFTA) members which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the EEA agreement. *This article is without prejudice to companies affected by Brexit.*

## Amendment 20

### Proposal for a regulation Article 7 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. Proposals shall be systematically screened to identify those actions raising complex or serious ethics issues and submit them to an ethics assessment. Ethics

2. Proposals shall be systematically screened to identify those actions raising complex or serious ethics issues and submit them to an ethics assessment. Ethics

screenings and assessments shall be carried out by the Commission with the *support of experts on defence ethics*. The Commission shall ensure the transparency of the ethics procedures as much as possible.

screenings and assessments shall be carried out by the Commission *in close cooperation* with the *Member States*. The Commission shall ensure the transparency of the ethics procedures as much as possible.

## Amendment 21

### Proposal for a regulation Article 10 – paragraph 3

#### *Text proposed by the Commission*

3. All infrastructure, facilities, assets and resources used in actions financed under the Fund shall be located on the territory of the Union or associated countries. Furthermore, when performing an eligible action, beneficiaries and their subcontractors shall cooperate only with legal entities established in the Union or in an associated country and not controlled by non-associated third countries or non-associated third country entities.

#### *Amendment*

3. All **registered offices**, infrastructure, facilities, assets and resources used in actions financed under the Fund shall be located on the territory of the Union or associated countries. Furthermore, when performing an eligible action, beneficiaries and their subcontractors shall cooperate only with legal entities established in the Union or in an associated country and not controlled by non-associated third countries or non-associated third country entities.

## Amendment 22

### Proposal for a regulation Article 11 – paragraph 4

#### *Text proposed by the Commission*

4. Unless otherwise provided for in the work programme referred to in Article 27, the action shall be undertaken in a cooperation of at least three legal entities which are established in at least **three different** Member States **and/or associated countries**. **At least three of** these **eligible** entities **established in at least two Member States and/or associated countries** shall not, during the whole implementation of the action, be effectively controlled, directly or indirectly, by the same entity, and shall not control each other.

#### *Amendment*

4. Unless otherwise provided for in the work programme referred to in Article 27, the action shall be undertaken in a cooperation of at least three legal entities which are established in at least **two** Member States. These entities shall not, during the whole implementation of the action, be effectively controlled, directly or indirectly, by the same entity, and shall not control each other.

## Amendment 23

### Proposal for a regulation

#### Article 13 – paragraph 1 – point f a (new)

*Text proposed by the Commission*

*Amendment*

**(fa) contribution to reducing the European defence industry's dependence on and increasing its strategic autonomy with regard to technologies or products controlled and/or subject to authorisation by a third country or one of its entities;**

## Amendment 24

### Proposal for a regulation

#### Article 14 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. The Fund **may** finance **up to** 100% of the eligible costs of an action without prejudice to the co-financing principle.

1. The Fund **shall** finance 100% of the eligible costs of an action without prejudice to the co-financing principle.

## Amendment 25

### Proposal for a regulation

#### Article 14 – paragraph 3 – point b

*Text proposed by the Commission*

*Amendment*

(b) a consortium shall benefit from a funding rate increased by the percentage points equivalent to the percentage of the total eligible costs allocated to SMEs established in a Member State or an associated country other than those in which the consortium members that are not SMEs are established in;

(b) a consortium shall benefit from a funding rate increased by the percentage points equivalent to the percentage of the total eligible costs allocated to SMEs; **the part of the total eligible costs allocated to SME's** established in a Member State or an associated country other than those in which the consortium members that are not SMEs are established in **can count double**;

## Amendment 26

### Proposal for a regulation

#### Article 14 – paragraph 3 – point c

##### *Text proposed by the Commission*

(c) a consortium shall benefit from a funding rate increased by the percentage points equivalent to the quarter of the percentage of the total eligible costs allocated to mid-caps established in a Member State or an associated country other than those in which the other consortium members that are not **SMEs or** mid-caps are established in;

##### *Amendment*

(c) a consortium shall benefit from a funding rate increased by the percentage points equivalent to the quarter of the percentage of the total eligible costs allocated to mid-caps; ***if those mid-caps are*** established in a Member State or an associated country other than those in which the other consortium members that are not mid-caps are established in, ***the consortium will benefit from a funding rate increased by 5% of the total eligible costs allocated to those mid-caps;***

## Amendment 27

### Proposal for a regulation

#### Article 16 – paragraph 1

##### *Text proposed by the Commission*

1. Indirect eligible costs shall be determined by applying a flat rate of 25 % of the total direct eligible costs, ***excluding direct eligible costs for subcontracting, financial support to third parties and any unit costs or lump sums which include indirect costs.***

##### *Amendment*

1. Indirect eligible costs shall be determined by applying a flat rate of 25 % of the total direct eligible costs.

## Amendment 28

### Proposal for a regulation

#### Article 16 – paragraph 2

##### *Text proposed by the Commission*

2. ***Where appropriate***, indirect eligible costs ***beyond the flat rate of 25 %*** may be determined in accordance with the beneficiary's usual cost accounting practices on the basis of actual indirect

##### *Amendment*

2. ***As an alternative***, indirect eligible costs may be determined in accordance with the beneficiary's usual cost accounting practices on the basis of actual indirect costs provided that these cost accounting

costs provided that these cost accounting practices are accepted by national authorities under comparable funding schemes in accordance with Article [185] of the Financial Regulation and communicated to the Commission.

practices are accepted by national authorities under comparable funding schemes in accordance with Article [185] of the Financial Regulation and communicated to the Commission.

## Amendment 29

### Proposal for a regulation Article 21 – paragraph 1

*Text proposed by the Commission*

***Blending operations decided under this*** Fund shall be ***implemented*** in accordance with the [InvestEU regulation] and Title X of the Financial Regulation.

*Amendment*

***Beneficiaries of the*** Fund shall be ***eligible to access the dedicated financial instruments deployed under InvestEU***, in accordance with the [InvestEU regulation] and Title X of the Financial Regulation.

## Amendment 30

### Proposal for a regulation Article 29 – paragraph 5

*Text proposed by the Commission*

5. Independent experts shall be chosen on the basis of their skills, experience and knowledge appropriate to carry out the tasks assigned to them.

*Amendment*

5. Independent experts shall be chosen on the basis of their skills, experience and knowledge appropriate to carry out the tasks assigned to them. ***The selection process shall also take gender balance into account.***

## Amendment 31

### Proposal for a regulation Article 32 – paragraph 2

*Text proposed by the Commission*

2. The interim evaluation of the Fund shall be performed once there is sufficient information available about the implementation of the Fund, but no later than ***four*** years after the start of the Fund

*Amendment*

2. The interim evaluation of the Fund shall be performed once there is sufficient information available about the implementation of the Fund, but no later than ***two*** years after the start of the Fund

implementation. The interim evaluation report will include notably, an assessment of the governance of the Fund, implementation rates, project award results including SMEs and mid-caps involvement and the degree of their cross-border participation, and funding granted in accordance with Article [195] of the Financial Regulation by 31 July **2024**. The Commission may submit proposals for any appropriate amendments to the present regulation.

implementation. The interim evaluation report will include notably, an assessment of the governance of the Fund, implementation rates, project award results including SMEs and mid-caps involvement and the degree of their cross-border participation, and funding granted in accordance with Article [195] of the Financial Regulation by 31 July **2022**. The Commission may submit proposals for any appropriate amendments to the present regulation.

## **Amendment 32**

### **Proposal for a regulation Article 32 – paragraph 3**

#### *Text proposed by the Commission*

3. At the end of the implementation period but no later than **four** years after the 31 December **2031**, a final evaluation of the Fund implementation shall be carried out by the Commission. The final evaluation report shall include the results of the implementation and to the extent possible given timing the impact of the Fund. The report - building on relevant consultations of Member States and associated countries and key stakeholders - shall notably assess the progress made towards the achievement of objectives set out in Article 3. It shall also analyse cross border participation, including of SMEs and mid-caps in projects implemented under the Fund as well as the integration of SMEs and Mid-caps in the global value chain. The evaluation shall also contain information on the countries of origin of the recipients and, where possible, the distribution of the generated intellectual property rights.

#### *Amendment*

3. At the end of the implementation period but no later than **two** years after the 31 December **2029**, a final evaluation of the Fund implementation shall be carried out by the Commission. The final evaluation report shall include the results of the implementation and to the extent possible given timing the impact of the Fund. The report - building on relevant consultations of Member States and associated countries and key stakeholders - shall notably assess the progress made towards the achievement of objectives set out in Article 3. It shall also analyse cross border participation, including of SMEs and mid-caps in projects implemented under the Fund as well as the integration of SMEs and Mid-caps in the global value chain. The evaluation shall also contain information on the countries of origin of the recipients and, where possible, the distribution of the generated intellectual property rights.

## Amendment 33

### Proposal for a regulation

#### Article 33 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***Before the interim evaluation of the Commission, the European Court of Auditors shall publish a Special Report on the implementation of the Fund and present its conclusions to the committee on Budgets and the Budgetary Control committee of the European Parliament.***

## Amendment 34

### Proposal for a regulation

#### Article 35 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. The Commission shall implement information and communication actions relating to the Fund, and its actions and results. Financial resources allocated to the Fund shall also contribute to the corporate communication of the political priorities of the Union, as far as they are related to the objectives referred to in Article 3.

2. The Commission shall implement information and communication actions relating to the Fund, and its actions and results. Financial resources allocated to the Fund shall also contribute to the corporate communication of the political priorities of the Union, as far as they are related to the objectives referred to in Article 3, ***and set-up and maintain a standing stakeholder conference on the development of a common European armaments and capability policy.***



## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Establishing the European Defence Fund
<b>References</b>	COM(2018)0476 – C8-0268/2018 – 2018/0254(COD)
<b>Committee responsible</b> Date announced in plenary	ITRE 2.7.2018
<b>Opinion by</b> Date announced in plenary	BUDG 2.7.2018
<b>Rapporteur</b> Date appointed	Alain Lamassoure 11.7.2018
<b>Discussed in committee</b>	26.9.2018
<b>Date adopted</b>	5.11.2018
<b>Result of final vote</b>	+: 22 –: 5 0: 0
<b>Members present for the final vote</b>	Jean Arthuis, Reimer Böge, Lefteris Christoforou, Gérard Deprez, André Elissen, José Manuel Fernandes, Eider Gardiazabal Rubial, Ingeborg Gräßle, Monika Hohlmeier, John Howarth, Bernd Kölmel, Zbigniew Kuźmiuk, Vladimír Maňka, Jan Olbrycht, Paul Rübig, Eleftherios Synadinos, Isabelle Thomas, Inese Vaidere, Tiemo Wölken, Marco Zanni
<b>Substitutes present for the final vote</b>	Karine Gloanec Maurin, Alain Lamassoure, Janusz Lewandowski, Andrey Novakov, Marco Valli
<b>Substitutes under Rule 200(2) present for the final vote</b>	Michael Detjen, Stefan Gehrold

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

22	+
ALDE	Jean Arthuis, Gérard Deprez
ECR	Zbigniew Kuźmiuk
PPE	Reimer Böge, Lefteris Christoforou, José Manuel Fernandes, Stefan Gehrold, Ingeborg Gräßle, Monika Hohlmeier, Alain Lamassoure, Janusz Lewandowski, Andrey Novakov, Jan Olbrycht, Paul Rübig, Inese Vaidere
S&D	Michael Detjen, Eider Gardiazabal Rubial, Karine Gloanec Maurin, John Howarth, Vladimír Maňka, Isabelle Thomas, Tiemo Wölken

5	-
ECR	Bernd Kölmel
EFDD	Marco Valli
ENF	André Elissen, Marco Zanni
NI	Eleftherios Synadinos

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention

6.11.2018

## **OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION**

for the Committee on Industry, Research and Energy

on the proposal for a regulation of the European Parliament and of the Council establishing the European Defence Fund  
(COM(2018)0476 – C8-0268/2018 – 2018/0254(COD))

Rapporteur for opinion: Antonio López-Istúriz White

### **SHORT JUSTIFICATION**

On June 7th 2017, the Commission launched the idea of a breakthrough-initiative in the area of defence: the European Defence Fund. A two-step approach was proposed involving:

1. an initial test period under the 2014-2020 multi-annual financial framework during which a Preparatory Action on Defence Research supports collaborative defence research, while the proposed European Defence Industrial Development Programme (EDIDP) will co-finance collaborative development projects, and
2. a dedicated fund under the 2021-2027 multi-annual financial framework scaling up the funding for collaborative research in innovative defence products and technologies and for subsequent stages of the development cycle, including the development of prototypes.

The IMCO Rapporteur welcomes this proposal setting up the European Defence Fund under the 2021-2027 multi-annual financial framework. From a defence market angle, it appears that the existing internal market instruments to promote an effective cooperation among Member States and for building on economies of scale were not a great success. There is a consensus that more cooperation could lead progressively to, not only consolidation, but also more integration of the European market in the sector. Targeted EU financing, as the Fund is, can definitely contribute to unlock a number of cooperation development projects which otherwise would not start.

The Rapporteur underlines the importance of cross-border cooperation and the absolute need to incentivise and promote actions that realise such collaboration. The Fund must strongly encourage the participation of small and medium-sized enterprises and mid-caps in collaborative projects and foster breakthrough innovation solutions.

A stronger and inclusive single market in the defence sector contributes to more efficiency that will ultimately mean better value for money for the Member States and the European

citizens. In fact, lack of cooperation between Member States in the field of security and defence is estimated to cost between €25 billion and €100 billion every year.

Furthermore, the Fund can act as a catalyst for an innovative and competitive industrial and scientific base, which is able to meet Europe's defence needs with cutting-edge, fully interoperable technology and equipment. If the Union is able to promote a defence industry that produces excellence in industrial and technological capabilities, we are preserving the EU's strategic autonomy and preparing for the current and future security needs. On the other hand, the Union is preparing itself to play a role at an international level.

The co-legislators just recently concluded the negotiations and agreed on the EDIDP Regulation. IMCO has delivered an Opinion on the latter (Rapporteur: Ms Anneleen van Bossuyt (ECR)) expressing general support for the Programme.

The IMCO Rapporteur wishes to form a position that takes into account the recent work done on the EDIDP Regulation. He acknowledges, for example, that deliberations on the participation requirements for legal entities and Member States (three and three) were just concluded and sees no point in re-opening this issue at this moment. Similar is the Rapporteur's approach with respect to the funding rates.

The Rapporteur wishes to insist on important points from a single market point of view, also previously stressed in the IMCO Opinion on the EDIDP Regulation, such as the necessity to increase interoperability, by producing state-of-the-art and interoperable defence technology and equipment and by supporting the development of common technical specifications and standards.

Finally, since 80% of defence procurement is run on a purely national basis, leading to a costly duplication of military capabilities, the Rapporteur wishes to highlight the need to foster an open and well-functioning internal market as well as the process of opening national supply chains; also through proper application of the 2009 EU "Defence Package", namely Directive 2009/81/EC on defence and security procurement and Directive 2009/43/EC on intra-community defence transfers.

## AMENDMENTS

### Amendment 1

#### Proposal for a regulation Recital -1 (new)

*Text proposed by the Commission*

*Amendment*

***(-1) The Union's geopolitical context has changed dramatically in the last decade. The situation in Europe's neighbouring regions is unstable and the***

*Union faces a complex and challenging environment combining the emergence of new threats like hybrid and cyber-attacks and the return of more conventional challenges. Faced with this context both European citizens and their political leaders share the view that more has to be done collectively to defend ourselves. 75% of Europeans support a common defence and security policy. In the joint declaration of 25 March 2017 in Rome, leaders of 27 Member States and the European Council, the European Parliament and the Commission stated that the Union will strengthen its common security and defence and foster a more competitive and integrated defence industry.*

## Amendment 2

### Proposal for a regulation Recital 1

#### *Text proposed by the Commission*

(1) In the European Defence Action Plan, adopted on 30 November 2016, the Commission committed to complement, leverage and consolidate collaborative efforts by Member States in developing defence technological and industrial capabilities to respond to security challenges, as well as to foster a competitive, innovative and efficient European defence industry. It proposed in particular to launch a European Defence Fund (the 'Fund') to support investments in joint research and the joint development of defence products and technologies, thus fostering synergies and cost-effectiveness, and to promote the Member States' joint purchase and maintenance of defence equipment. This Fund would complement national funding already used for this purpose and should act as an incentive for Member States to cooperate and invest more in defence. The Fund would support

#### *Amendment*

(1) In *its Communication of 30 November 2016 on* the European Defence Action Plan, adopted on 30 November 2016, the Commission committed to complement, leverage and consolidate collaborative efforts by Member States in developing defence technological and industrial capabilities to respond to security challenges, as well as to foster a competitive, innovative and efficient European defence industry *and to create a more integrated defence market throughout the Union*. It proposed in particular to launch a European Defence Fund (the 'Fund') to support investments in joint research and the joint development of defence products and technologies, thus fostering synergies and cost-effectiveness, and to promote the Member States' joint purchase and maintenance of defence equipment. This Fund would complement national funding already used for this

cooperation during the whole cycle of defence products and technologies.

purpose and should act as an incentive for Member States to cooperate **cross-border** and invest more in defence. The Fund would support cooperation during the whole cycle of defence products and technologies.

### **Amendment 3**

#### **Proposal for a regulation Recital 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***(1a) On 7 June 2017, the Commission adopted a Communication launching the European Defence Fund. A two-step approach was proposed: firstly, to test the approach, initial financing for both research and development has been made available under the 2014-2020 Multi-Annual Financial Framework ('MFF') by the adoption of Regulation (EU) 2018/1092<sup>1a</sup>; secondly, a dedicated Fund would be established under the MFF 2021-2027 scaling up the funding for collaborative research in innovative defence products and technologies and for subsequent stages of the development cycle, including the development of prototypes. There should be a consistent and coherent approach between those two steps.***

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***<sup>1a</sup> Regulation (EU) 2018/1092 of the European Parliament and of the Council of 18 July 2018 establishing the European Defence Industrial Development Programme aiming at supporting the competitiveness and innovation capacity of the Union's defence industry (OJ L 200, 7.8.2018, p. 30).***

### **Amendment 4**

#### **Proposal for a regulation**

**Recital 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***(1b) The defence sector is characterised by increasing costs of defence equipment and by high R&D costs that limit the launch of new defence programmes and directly impact on the competitiveness and innovation capacity of the Union industry. In view of the cost escalation, of the magnitude of non-recurring R&D expenses and of the small series that can be procured nationally, the development of a new generation of major defence systems and of new defence technologies is increasingly beyond the reach of single Member State.***

**Amendment 5**

**Proposal for a regulation  
Recital 1 c (new)**

*Text proposed by the Commission*

*Amendment*

***(1c) The situation of the defence sector has been further exacerbated by important cuts in defence budgets across Europe in the past 10 years, affecting in particular R&D and equipment expenditures. Between 2006 and 2013 real defence expenditure levels in the EDA participating Member States were reduced by 12%. Considering that defence R&D is the basis for the development of the future cutting edge defence technologies, such trends are particularly worrying and pose a serious challenge to the capacity to maintain Union's defence industry competitiveness over the long term.***

**Amendment 6**

**Proposal for a regulation  
Recital 1 d (new)**

**(1d) Despite the interplay between increasing costs and decreasing spending, defence planning and defence spending on R&D and procurement of equipment has remained largely at national level with very limited cooperation between Member States in defence equipment investments. Additionally, when implemented, only few programs are also linked to Union capability priorities: In 2015 only 16% of equipment was procured through European collaborative procurement, far away from the agreed collective benchmark of 35%.**

## Amendment 7

### Proposal for a regulation Recital 2

Text proposed by the Commission

(2) The Fund would contribute to the establishment of a strong, competitive and innovative defence industrial and technological base and **go** hand in hand with the Union's initiatives towards a more integrated European Defence Market and in particular, the two Directives<sup>6</sup> on procurement and on EU transfers in the defence sector adopted in 2009.

Amendment

(2) The Fund would contribute to the establishment of a strong, competitive and innovative defence industrial and technological base and **the creation of a more integrated defence market in Europe that caters simultaneously and affordably for the different security needs of the Member States. The Fund goes** hand in hand with the Union's initiatives towards a more integrated European Defence Market and in particular, the two Directives on procurement and on EU transfers in the defence sector adopted in 2009. **In all cases, the requirements of Directive 2009/81/EC of the European Parliament and of the Council should be respected in full, including the transparency and non-discrimination principles, and exceptions should be allowed only within the strict framework of that Directive.**

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<sup>6</sup> Directive 2009/43/EC of the European Parliament and of the Council, simplifying

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<sup>6</sup> Directive 2009/43/EC of the European Parliament and of the Council, simplifying



terms and conditions of transfers of defence-related products within the Community, OJ L 146, 10.6.2009, p. 1; Directive 2009/81/EC of the European Parliament and of the Council on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, OJ L 216, 20.8.2009, p. 76.

terms and conditions of transfers of defence-related products within the Community (OJ L 146, 10.6.2009, p. 1); Directive 2009/81/EC of the European Parliament and of the Council on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security (OJ L 216, 20.8.2009, p. 76).

## Amendment 8

### Proposal for a regulation Recital 3

#### *Text proposed by the Commission*

(3) Following an integrated approach and in order to contribute to the enhancement of the competitiveness and innovation capacity of the Union's defence industry, a European Defence Fund should be established. The Fund should aim at enhancing the competitiveness, innovation, efficiency **and** autonomy of the Union's defence industry thereby contributing to the Union's strategic autonomy by supporting the cross border cooperation between Member States and between enterprises, research centres, national administrations, international organisations and universities, in the research phase and in the development phase of defence products and technologies. To achieve more innovative solutions and **an** open internal market, the Fund should support the cross-border **participation of** defence small and medium sized enterprises (SMEs) and middle capitalisation companies (mid-caps).

#### *Amendment*

(3) Following an integrated approach and in order to contribute to the enhancement of the competitiveness and innovation capacity of the Union's defence industry **throughout the Union**, a European Defence Fund should be established. The Fund should aim at enhancing the competitiveness, innovation, efficiency, **environmental performance and technological** autonomy of the Union's defence industry thereby contributing to the Union's strategic autonomy by supporting the cross border cooperation between Member States and between enterprises, research centres, national administrations, international organisations and universities, in the research phase and in the development phase of defence products and technologies. **This should also improve the efficiency of the internal market in the defence sector which would ultimately mean better value for money for the Member States.** To achieve more innovative solutions and **to accomplish a well-functioning and** open internal market **for defence, avoiding duplication, helping to create new market opportunities and promoting interoperability and**

*standardisation*, the Fund should *increase*, support *and leverage* the cross-border *cooperation between Member States and legal entities, including new legal entities and* defence small and medium sized enterprises (SMEs) and middle capitalisation companies (mid-caps), *by means of development of defence products and technologies consistent with defence capability priorities commonly agreed by Member States within the Union.*

## **Amendment 9**

### **Proposal for a regulation Recital 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**(3a)** *In order to achieve more innovative solutions and to foster an open internal market, the Fund should provide strong support to the cross-border participation of SMEs and middle capitalisation companies (mid-caps) and help create new market opportunities.*

## **Amendment 10**

### **Proposal for a regulation Recital 8**

*Text proposed by the Commission*

*Amendment*

(8) The difficulty to agree on consolidated defence capability requirements and common technical specifications or standards hampers cross-border collaboration between Member States and between legal entities based in different Member States. The absence of such requirements, specifications and standards has led to increased fragmentation of the defence sector, technical complexity, delays *and* inflated costs as well as decreased interoperability. The agreement on common technical

(8) The difficulty to agree on consolidated defence capability requirements and common technical specifications or standards hampers cross-border collaboration between Member States and between legal entities based in different Member States. The absence of such requirements, specifications and standards has led to increased fragmentation of the defence sector, technical complexity, delays, inflated costs, *unnecessary duplication of capabilities* as well as decreased interoperability. The

specifications should be a prerequisite for actions involving a higher level of technological readiness. Activities of Member States leading to common defence capability requirements and supporting studies as well as actions aiming at supporting the creation of a common definition of technical specifications or standards should also be eligible for support by the Fund.

agreement on common technical specifications should be a prerequisite for actions involving a higher level of technological readiness. Activities of Member States ***fostering interoperability***, leading to common defence capability requirements and supporting studies as well as actions aiming at supporting the creation of a common definition of technical specifications or standards should also be eligible for support by the Fund ***in order to avoid that competing specifications and standards would undermine interoperability***.

## Amendment 11

### Proposal for a regulation Recital 9

#### *Text proposed by the Commission*

(9) As the objective of the Fund is to support the competitiveness and innovation of the Union defence industry by leveraging and complementing collaborative defence research and technology activities and de-risking the development phase of cooperative projects, actions related to the research and development of a defence product or technology should be eligible to benefit from it. This will also apply to the upgrade, including the interoperability thereof, of existing defence products and technologies.

#### *Amendment*

(9) As the objective of the Fund is to support the competitiveness and innovation of the Union defence industry by leveraging and complementing collaborative defence research, ***innovation*** and technology activities and de-risking the development phase of cooperative projects, actions related to the research and development of a defence product or technology should be eligible to benefit from it. This will also apply to the upgrade, including the interoperability thereof, of existing defence products and technologies.

## Amendment 12

### Proposal for a regulation Recital 10

#### *Text proposed by the Commission*

(10) Given that the Fund aims particularly at enhancing cooperation between legal entities and Member States across Europe, an action should be eligible

#### *Amendment*

(10) Given that the Fund aims particularly at enhancing cooperation between legal entities and Member States across Europe, an action should be eligible

for funding only if it is undertaken by a cooperation of at least three legal entities based in at least three different Member States and/or associated countries. At least three of these legal eligible entities established in at least two different Member States and/or associated countries should not be effectively controlled, directly or indirectly, by the same entity or should not control each other. In order to boost the cooperation between Member States ***the Fund may support*** joint pre-commercial procurement .

for funding only if it is undertaken by a cooperation of at least three legal entities based in at least three different Member States and/or associated countries. ***Every type of cooperation that includes legal entities from an associated country should also include at least two legal entities from two different Member States.*** At least three of these legal eligible entities established in at least two different Member States and/or associated countries should not be effectively controlled, directly or indirectly, by the same entity or should not control each other. In order to boost the cooperation between Member States ***and cross-border synergies,*** joint pre-commercial procurement ***should be eligible for funding.***

## Amendment 13

### Proposal for a regulation Recital 12

#### *Text proposed by the Commission*

(12) As the Fund aims at enhancing the competitiveness, efficiency and autonomy of the Union's defence industry, only entities established in the Union or associated countries and not subject to control by non-associated third countries or non-associated third country entities should in principle be eligible for support. Additionally, in order to ensure the protection of essential security and defence interests of the Union and its Member States, the infrastructure, facilities, assets and resources used by the recipients and their subcontractors in actions supported by the Fund should not be located on the territory of non-associated third countries.

#### *Amendment*

(12) As the Fund aims at enhancing the competitiveness, efficiency and autonomy of the Union's defence industry, only entities established in the Union or associated countries and not subject to control by non-associated third countries or ***by*** non-associated third country entities should in principle be eligible for support. Additionally, in order to ensure the protection of essential security and defence interests of the Union and its Member States, the infrastructure, facilities, assets and resources used by the recipients and their subcontractors in actions supported by the Fund should ***as a rule*** not be located on the territory of non-associated third countries.

## Amendment 14

**Proposal for a regulation**  
**Recital 13**

*Text proposed by the Commission*

(13) In certain circumstances, if this is necessary for achieving the objectives of the action, it should be possible to derogate from the principle that recipients and their subcontractors should not be subject to control by non-associated third countries or non-associated third country entities. In that perspective, legal entities established in the Union that are controlled by a non-associated third country or a non-associated third country entity can be eligible if relevant and strict conditions relating to the security and defence interests of the Union and its Member States are fulfilled. The participation of such entities should not contravene the objectives of the Fund. **Applicants** should provide all relevant information about the infrastructure, facilities, assets and resources to be used in the action.

*Amendment*

(13) In certain **justified** circumstances, if this is necessary for achieving the objectives of the action **and where the technological and/or industrial input cannot be supplied by European entities**, it should be possible to derogate from the principle that recipients and their subcontractors should not be subject to control by non-associated third countries or non-associated third country entities. In that perspective, legal entities established in the Union that are controlled by a non-associated third country or a non-associated third country entity can be eligible if relevant and strict conditions relating to the security and defence interests of the Union and its Member States, **as established in the framework of the Common Foreign and Security Policy pursuant to Title V of the Treaty on European Union (TEU), including in terms of strengthening the European Defence Technological and Industrial Base**, are fulfilled. The participation of such entities should not contravene the objectives of the Fund. **Beneficiaries** should provide all relevant information about the infrastructure, facilities, assets and resources to be used in the action.

**Amendment 15**

**Proposal for a regulation**  
**Recital 17**

*Text proposed by the Commission*

(17) Different types of financial arrangement should be at the disposal to Member States for the joint development and acquisition of defence capabilities. The Financial Toolbox developed by the Commission should provide different types

*Amendment*

(17) Different types of financial arrangement should be at the disposal to Member States for the joint development and acquisition of defence capabilities. The Financial Toolbox developed by the Commission should provide different types

of arrangements that Member States can use to address challenges for collaborative development and procurement from a financing perspective. The use of such financial arrangements could further foster the launch of collaborative defence projects and increase the efficiency of defence spending, including for projects supported under the European Defence Fund.

of arrangements that Member States can use to address challenges for collaborative development and procurement from a financing perspective. The use of such financial arrangements could further foster the launch of collaborative ***and cross-border*** defence projects, ***contribute in avoiding duplications*** and increase the efficiency of defence spending, including for projects supported under the European Defence Fund.

## Amendment 16

### Proposal for a regulation Recital 22

#### *Text proposed by the Commission*

(22) In order to ensure that the funded actions will contribute to the competitiveness and efficiency of the European defence industry, it is important that Member States already intend to jointly procure the final product or use the technology, notably through joint cross-border procurement, where Member States jointly organise their procurement procedures ***in particular*** with the use of a central purchasing body.

#### *Amendment*

(22) In order to ensure that the funded actions will contribute to the competitiveness and efficiency of the European defence industry, it is important that Member States already intend to jointly procure the final product or use the technology, notably through joint cross-border procurement, where Member States jointly organise their procurement procedures, ***for example*** with the use of a central purchasing body.

## Amendment 17

### Proposal for a regulation Recital 23

#### *Text proposed by the Commission*

(23) The promotion of innovation and technological development in the Union defence industry should take place in a manner coherent with the security and defence interests of the Union. Accordingly, the action's contribution to those interests and to the defence research and capability priorities commonly agreed by Member States should serve as an

#### *Amendment*

(23) The promotion of innovation, ***research*** and technological development in the Union defence industry should take place in a manner coherent with the security and defence interests of the Union. Accordingly, the action's contribution to those interests and to the defence research and capability priorities commonly agreed by Member States should serve as an

award criterion. Within the Union, common defence research and capability shortfalls are identified in the Common Security and Defence Policy (CSDP) framework notably through Overarching Strategic Research Agenda and the Capability Development Plan. Other Union processes such as the Coordinated Annual Review on Defence and the Permanent Structured Cooperation will support the implementation of relevant priorities through identifying and taking forward opportunities for enhanced cooperation with a view to fulfilling the EU level of ambition on security and defence. Where appropriate, regional and international priorities, including those in the North Atlantic Treaty Organisation context, may also be taken into account if they are in line with Union priorities and do not prevent any Member State or an associated country from participating, while also taking into account that unnecessary duplication should be avoided.

award criterion. Within the Union, common defence research and capability shortfalls are identified in the Common Security and Defence Policy (CSDP) framework notably through Overarching Strategic Research Agenda and the Capability Development Plan. Other Union processes such as the Coordinated Annual Review on Defence and the Permanent Structured Cooperation will support the implementation of relevant priorities through identifying and taking forward opportunities for enhanced cooperation with a view to fulfilling the EU level of ambition on security and defence. Where appropriate, regional and international priorities, including those in the North Atlantic Treaty Organisation context, may also be taken into account if they are in line with Union priorities and do not prevent any Member State or an associated country from participating, while also taking into account that unnecessary duplication should be avoided.

## Amendment 18

### Proposal for a regulation

#### Recital 31

*Text proposed by the Commission*

(31) The Commission should establish annual or multiannual work programmes in line with the objectives of the Fund. The Commission should be assisted in the establishment of the work programme by a committee of Member States. In order to benefit from its expertise in the defence sector, the European Defence Agency will be given the status of an observer in the committee. Given the specificities of the defence area, the European External Action Service should also assist in the committee of Member States.

*Amendment*

(31) The Commission should establish annual or multiannual work programmes in line with the objectives of the Fund. ***The work programme should set out in detail the categories of projects to be funded under the Fund and their direct relation to the objectives set out in the Fund.*** The Commission should be assisted in the establishment of the work programme by a committee of Member States. In order to benefit from its expertise in the defence sector, the European Defence Agency will be given the status of an observer in the committee. Given the specificities of the defence area, the European External Action Service should also assist in the committee

of Member States.

## Amendment 19

### Proposal for a regulation Recital 33

*Text proposed by the Commission*

(33) In order to support an open internal market, participation of cross-border SMEs and mid-caps, either as members of consortia or as subcontractors, should be encouraged.

*Amendment*

(33) In order to support an open internal market, participation of cross-border SMEs and mid-caps, either as members of consortia or as subcontractors, should be encouraged. ***The work programme should ensure that a credible proportion of the overall budget will benefit actions enabling the cross-border participation of SMEs and mid-caps.***

## Amendment 20

### Proposal for a regulation Recital 34

*Text proposed by the Commission*

(34) The Commission should endeavour to maintain dialogue with Member States and industry to ensure the success of the Fund.

*Amendment*

(34) The Commission should endeavour to maintain dialogue with Member States and industry to ensure the success of the Fund ***through the impact it brings to the defence industry.***

## Amendment 21

### Proposal for a regulation Recital 38 a (new)

*Text proposed by the Commission*

*Amendment*

***(38a) The European Court of Auditors shall also consider value for money of projects financed by the Fund. The Commission must take these audits into account without undue delay.***



## Amendment 22

### Proposal for a regulation

#### Recital 41

*Text proposed by the Commission*

(41) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals, this Fund will contribute to mainstream climate action in the Union's policies and to the achievement of an overall target of 25 % of the EU budget expenditures supporting climate objectives. Relevant actions will be identified during the Fund's preparation and implementation, and reassessed in the context of its mid-term evaluation.

*Amendment*

(41) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals, this Fund will contribute to mainstream climate action in the Union's policies and to the achievement of an overall target of 25 % of the EU budget expenditures supporting climate objectives ***by including the environmental impact reduction as a goal and award criteria for the Fund.*** Relevant actions will be identified during the Fund's preparation and implementation, and reassessed in the context of its mid-term evaluation.

## Amendment 23

### Proposal for a regulation

#### Recital 43

*Text proposed by the Commission*

(43) The Union financial support should ***not affect the transfer of defence-related products within the Union in accordance with*** Directive 2009/43/CE of the European Parliament and the Council<sup>15</sup>, ***nor*** the export of products, equipment or technologies.

*Amendment*

(43) The Union financial support should ***go hand in hand with the full and correct implementation of*** Directive 2009/43/CE of the European Parliament and the Council<sup>15</sup> ***on the transfer of defence-related products within the Union, and*** the export of products, equipment or technologies.

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<sup>15</sup> Directive 2009/43/EC of the European Parliament and the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community (OJ L 146, 10.6.2009, p.

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<sup>15</sup> Directive 2009/43/EC of the European Parliament and the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community (OJ L 146, 10.6.2009, p.

1).

## Amendment 24

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 5

##### *Text proposed by the Commission*

(5) 'executive management **structures**' means **any** body **or bodies**, appointed in accordance with national law, which **are** empowered to **set** the **legal** entity's strategy, objectives and overall direction, and which **oversee and monitor** management decision-making;

1).

##### *Amendment*

(5) 'executive management **structure**' means **a** body **of an entity** appointed in accordance with national law, **and, where applicable, reporting to the chief executive officer**, which **is** empowered to **establish** the entity's strategy, objectives and overall direction, and which **oversees and monitors** management decision-making;

## Amendment 25

### Proposal for a regulation

#### Article 3 – paragraph 1

##### *Text proposed by the Commission*

1. The general objective of the Fund is to foster the competitiveness, efficiency and innovation capacity of the European defence industry, by supporting collaborative actions and cross-border cooperation between legal entities throughout the Union, including SMEs and mid-caps as well as fostering the better exploitation of the industrial potential of innovation, research and technological development, at each stage of the industrial life cycle, thus contributing to the Union strategic autonomy. The Fund should also contribute to the freedom of action of the Union and its autonomy, in particular in technological and industrial terms.

##### *Amendment*

1. The general objective of the Fund is to foster the competitiveness, efficiency and innovation capacity of the European defence industry **throughout the Union**, by supporting collaborative actions and **widening** cross-border cooperation between legal entities throughout the Union, including SMEs and mid-caps as well as fostering the better exploitation of the industrial potential of innovation, research and technological development, at each stage of the industrial life cycle, thus contributing to the Union strategic autonomy. The Fund should also contribute to the freedom of action of the Union and its autonomy, in particular in technological and industrial terms.

## Amendment 26

### Proposal for a regulation

#### Article 3 – paragraph 2 – point a

*Text proposed by the Commission*

(a) support collaborative research projects that could significantly boost the performance of future capabilities, aiming at maximising innovation and introducing new defence products and technologies, including disruptive ones;

*Amendment*

(a) support collaborative research projects that could significantly boost the performance of future capabilities ***in the Union***, aiming at maximising innovation and introducing new defence products and technologies, including disruptive ones;

## Amendment 27

### Proposal for a regulation

#### Article 3 – paragraph 2 – point b

*Text proposed by the Commission*

(b) support collaborative development projects of defence products and technologies consistent with defence capability priorities commonly agreed by Member States within the framework of the Common Foreign and Security Policy, thus contributing to greater efficiency of defence spending within the Union, achieving greater economies of scale, reducing ***the risk of*** unnecessary duplication and as such reducing the fragmentation of defence products and technologies throughout the Union. Ultimately, ***the Fund will lead*** to greater interoperability between Member States' capabilities.

*Amendment*

(b) support collaborative development projects of defence products and technologies consistent with defence capability priorities commonly agreed by Member States within the framework of the Common Foreign and Security Policy, thus contributing to greater efficiency of defence spending within the Union, achieving greater economies of scale, reducing unnecessary duplication and as such reducing the fragmentation of defence products and technologies throughout the Union, ultimately, ***leading*** to greater interoperability between Member States' capabilities ***and furthering standardisation***.

## Amendment 28

### Proposal for a regulation

#### Article 4 – paragraph 3

*Text proposed by the Commission*

3. The amount referred to in paragraph 1 may be used for technical and

*Amendment*

3. The amount referred to in paragraph 1 may be used for technical and

administrative assistance for the implementation of the Fund, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems.

administrative assistance for the implementation of the Fund, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems. ***This amount shall not exceed 2% of the value of the financial envelope referred in paragraph 1.***

## **Amendment 29**

### **Proposal for a regulation Article 4 – paragraph 4**

*Text proposed by the Commission*

4. ***Up to*** 5 % of the financial envelope referred to in paragraph 1 shall be devoted to support disruptive technologies for defence.

*Amendment*

4. ***At least*** 5 % of the financial envelope referred to in paragraph 1 shall be devoted to support disruptive technologies for defence.

## **Amendment 30**

### **Proposal for a regulation Article 4 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4a. A credible proportion of the financial envelope shall benefit actions enabling the cross-border participation of SMEs and mid-caps***

## **Amendment 31**

### **Proposal for a regulation Article 4 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

5. ***Resources allocated to Member States under shared management may, at their request, be transferred to the Fund. The Commission shall implement those resources directly in accordance with***

***deleted***

*Article [62(1)(a)] of the Financial Regulation. Where possible those resources shall be used for the benefit of the Member State concerned.*

## **Amendment 32**

### **Proposal for a regulation**

#### **Article 5 – paragraph 1 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*The Fund may also be open to countries with which the Union has signed a security agreement on research and industrial defence funding collaboration.*

## **Amendment 33**

### **Proposal for a regulation**

#### **Article 7 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. Proposals shall be systematically screened to identify those actions raising complex or serious ethics issues and submit them to an ethics assessment. Ethics screenings and assessments shall be carried out by the Commission with the support of experts *on defence ethics*. The Commission shall ensure the transparency of the ethics procedures as much as possible.

2. Proposals shall be systematically screened to identify those actions raising complex or serious ethics issues and submit them to an ethics assessment. Ethics screenings and assessments shall be carried out by the Commission with the support of *independent* experts *with various backgrounds, including from civil society*. *Proposals that raise substantial ethical concerns must be subject to enhanced scrutiny and control*. The Commission shall ensure the transparency of the ethics procedures as much as possible *and report on this in the framework of its reporting and evaluation obligations under Articles 31 and 32*.

## **Amendment 34**

### **Proposal for a regulation**

#### **Article 7 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**3a. Entities participating in the action shall have robust corporate governance standards.**

## **Amendment 35**

### **Proposal for a regulation Article 7 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. If appropriate, ethics checks shall be carried out by the Commission during the implementation of the action. For serious or complex ethics issues, the checks shall be carried out by the Commission with the support of experts on defence ethics.**

**deleted**

## **Amendment 36**

### **Proposal for a regulation Article 7 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

**5. Actions which are not ethically acceptable *may* be rejected or terminated at any time.**

**5. Actions which are not ethically acceptable *shall* be rejected. *If an ethical incompatibility is detected, the action shall be restrained* or terminated at any time.**

## **Amendment 37**

### **Proposal for a regulation Article 8 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

**2. The Fund may provide funding in any of the forms laid down in the Financial Regulation, in particular grants, prizes and procurement. It may also provide financing**

**2. The Fund may provide funding in any of the forms laid down in the Financial Regulation, in particular grants, prizes and procurement, *in full respect of the***

in the form of financial instruments within blending operations.

***requirements of Directive 2009/81/EC on defence and security procurement.*** It may also provide financing in the form of financial instruments within blending operations.

## Amendment 38

### Proposal for a regulation

#### Article 10 – paragraph 2 – introductory part

##### *Text proposed by the Commission*

2. By derogation from paragraph 1, an applicant established in the Union or in an associated country and controlled by a non-associated third country or a non-associated third country entity may be eligible for funding if this is necessary for achieving the objectives of the action and provided that its participation ***will not put at risk*** the security interests of the Union and its Member States. In order to ensure protection of the security interests of the Union and its Member States, the call for proposals shall require the applicant to provide information demonstrating notably that:

##### *Amendment*

2. By derogation from paragraph 1, an applicant established in the Union or in an associated country and controlled by a non-associated third country or ***by*** a non-associated third country entity may be eligible for funding if this is necessary for achieving the objectives of the action and provided that its participation ***does not contravene*** the security ***and defence*** interests of the Union and its Member States. In order to ensure protection of the security interests of the Union and its Member States, the call for proposals shall require the applicant to provide information demonstrating notably that:

## Amendment 39

### Proposal for a regulation

#### Article 10 – paragraph 2 – point a

##### *Text proposed by the Commission*

(a) ***the control over*** the applicant will not be exercised in a manner that restricts in any way ***its*** ability to perform and complete the action;

##### *Amendment*

(a) the applicant ***is not exclusively controlled by third countries or by entities established in third countries and any control*** will not be exercised in a manner that restricts in any way ***the applicant's*** ability to perform and complete the action;

## Amendment 40

**Proposal for a regulation**  
**Article 10 – paragraph 2 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

***(ba) the participation of non-associated third country entities is solely directed to achieve competitive commercial objectives and not to pursue the strategic interests and goals of a third country government;***

**Amendment 41**

**Proposal for a regulation**  
**Article 10 – paragraph 2 – point b b (new)**

*Text proposed by the Commission*

*Amendment*

***(bb) the non-associated third country or third country entity provides a technological and/or industrial input which could not be supplied by a European entity;***

**Amendment 42**

**Proposal for a regulation**  
**Article 10 – paragraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

(c) the results of the action shall remain within the beneficiary and shall not be subject to control or restrictions by non-associated third countries or other non-associated third country entities during the action and for a specified period after its completion;

(c) ***ownership of the intellectual property arising from, and*** the results of the action shall remain within the beneficiary and shall not be subject to control or restrictions by non-associated third countries or other non-associated third country entities during the action and for a specified period after its completion ***and are not exported to or given access to from a third country or a third country entity without the approval of the Member States in which the beneficiary is established, and consistent with the objectives set out in Article 3;***



## Amendment 43

### Proposal for a regulation

#### Article 10 – paragraph 2 – point c a (new)

*Text proposed by the Commission*

*Amendment*

**(ca) all other relevant information about the infrastructure, facilities, assets and resources to be used in the action.**

## Amendment 44

### Proposal for a regulation

#### Article 10 – paragraph 3

*Text proposed by the Commission*

*Amendment*

3. All infrastructure, facilities, assets and resources used in actions financed under the Fund shall be located on the territory of the Union or associated countries. Furthermore, when performing an eligible action, beneficiaries and their subcontractors shall cooperate only with legal entities established in the Union or in an associated country and not controlled by non-associated third countries or non-associated third country entities.

3. All infrastructure, facilities, assets and resources used in actions financed under the Fund shall be located on the territory of the Union or associated countries. Furthermore, when performing an eligible action, beneficiaries and their subcontractors shall cooperate only with legal entities established in the Union or in an associated country and not **exclusively** controlled by non-associated third countries or **by** non-associated third country entities.

## Amendment 45

### Proposal for a regulation

#### Article 10 – paragraph 4

*Text proposed by the Commission*

*Amendment*

4. By derogation from the paragraph 3 beneficiaries and subcontractors involved in the action may use their assets, infrastructure, facilities and resources located or held on the territory of a non-associated third country if **this is** necessary for achieving the objectives of an action **and** provided that **this will not put at risk** the security of the Union and its Member

4. By derogation from the paragraph 3, **where no competitive substitutes are readily available in the Union**, beneficiaries and subcontractors involved in the action may use their assets, infrastructure, facilities and resources located or held on the territory of a non-associated third country if **that is strictly** necessary for achieving the objectives of

States. *Under the same conditions, when performing an eligible action, beneficiaries and their subcontractors may cooperate with an entity established in a non-associated third country. The costs related to the use of such infrastructure, facilities, assets or resources and to such cooperation shall not be eligible under the Fund.*

an action provided that *usage does not contravene the security and defence interests* of the Union and its Member States *and the objectives of the Fund.*

*If necessary, and in order to achieve the objectives of the Fund, beneficiaries may cooperate with entities located in third countries, if those have a relevant expertise for the action funded. However, the entities that cooperate with the beneficiaries shall not be located in third countries that are not identified in the work programme.*

#### **Amendment 46**

##### **Proposal for a regulation Article 10 – paragraph 5**

*Text proposed by the Commission*

5. In order to ensure protection of the security interests of the Union and its Member States, the call for proposals or grant agreement shall specify further conditions. These conditions shall relate, in particular to the provisions on ownership of results of the action and access to classified and non-classified sensitive information and to guarantees on security of supply.

*Amendment*

5. In order to ensure protection of the security *and defence* interests of the Union and its Member States, the call for proposals or grant agreement shall specify further conditions. These conditions shall relate, in particular to the provisions on ownership of results of the action and access to classified and non-classified sensitive information and to guarantees on security of supply.

#### **Amendment 47**

##### **Proposal for a regulation Article 10 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

**5a. When carrying out an eligible action, beneficiaries and their**

*subcontractors may cooperate with an entity established in a non-associated third country, provided the conditions set in paragraphs 4 and 5 are met. The costs related to the use of such cooperation and to the use of infrastructure, facilities, assets or resources shall not be eligible for funding.*

## **Amendment 48**

### **Proposal for a regulation Article 10 – paragraph 6**

*Text proposed by the Commission*

6. **Applicants** shall provide all relevant information necessary for the assessment of the eligibility criteria and the conditions referred to in paragraphs 1 to 4.

*Amendment*

6. **Beneficiaries** shall provide all relevant information necessary for the assessment of the eligibility criteria and the conditions referred to in paragraphs 1 to 4.

## **Amendment 49**

### **Proposal for a regulation Article 10 – paragraph 8**

*Text proposed by the Commission*

8. In the event of a change during the implementation of an action which might question the fulfilment of those criteria and conditions, the beneficiary shall inform the Commission, which shall assess whether those criteria and conditions are still met and address the potential impact on the funding of the action.

*Amendment*

8. In the event of a change during the implementation of an action which might question the fulfilment of those criteria and conditions, the beneficiary shall inform the Commission **immediately**, which shall assess whether those criteria and conditions are still met and address the potential impact on the funding of the action.

## **Amendment 50**

### **Proposal for a regulation Article 11 – paragraph 3 – point a**

*Text proposed by the Commission*

(a) activities aiming to create, underpin and improve new knowledge and defence

*Amendment*

(a) activities aiming to create, underpin and improve new knowledge and defence

technology which can achieve significant effects in the area of defence;

technology which can achieve significant effects in the area of defence ***and the competitiveness of the sector;***

## Amendment 51

### Proposal for a regulation

#### Article 11 – paragraph 3 – point h

*Text proposed by the Commission*

(h) the certification of a defence product, tangible or intangible component or technology. Certification is the process according to which a national authority certifies that the defence product, tangible or intangible component or technology complies with the applicable regulations;

*Amendment*

(h) the certification of a defence product, tangible or intangible component or technology. Certification is the process according to which a national authority certifies that the defence product, tangible or intangible component or technology complies with the applicable regulations ***and standards;***

## Amendment 52

### Proposal for a regulation

#### Article 11 – paragraph 3 – point i

*Text proposed by the Commission*

(i) the development of technologies or assets increasing efficiency across the life cycle of defence products and technologies;

*Amendment*

(i) the development of technologies or assets increasing efficiency ***and aiming at reducing the environmental impact*** across the life cycle of defence products and technologies;

## Amendment 53

### Proposal for a regulation

#### Article 11 – paragraph 4

*Text proposed by the Commission*

4. ***Unless otherwise provided for in the work programme referred to in Article 27,*** the action shall be undertaken in a cooperation of at least three legal entities which are established in at least three

*Amendment*

4. The action shall be undertaken in a cooperation ***within a consortium*** of at least three legal entities which are established in at least three different Member States and/or associated countries. ***Every***

different Member States and/or associated countries. At least three of these eligible entities established in at least two Member States and/or associated countries shall not, during the whole implementation of the action, be effectively controlled, directly or indirectly, by the same entity, and shall not control each other.

*consortium that includes legal entities from an associated country shall also include at least two legal entities from two different Member States.* At least three of these eligible entities established in at least two Member States and/or associated countries shall not, during the whole implementation of the action, be effectively controlled, directly or indirectly, by the same entity, and shall not control each other.

#### **Amendment 54**

##### **Proposal for a regulation Article 11 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

**5.** *Paragraph 4 shall not apply to for actions referred to in points c) and j) of paragraph 3 and to actions referred to in Article 6.*

*deleted*

#### **Amendment 55**

##### **Proposal for a regulation Article 12 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3.** For the award of funding for development actions, the Commission shall act by means of implementing acts adopted in accordance with the procedure referred to in Article 28 paragraph 2.

**3.** For the award of funding for *research and* development actions, the Commission shall act by means of implementing acts adopted in accordance with the procedure referred to in Article 28 paragraph 2.

#### **Amendment 56**

##### **Proposal for a regulation Article 13 – paragraph 1 – point c**

*Text proposed by the Commission*

*Amendment*

(c) contribution to the competitiveness

(c) contribution to the competitiveness

of the European defence industry, in particular by creating new market opportunities and accelerating the growth of companies throughout the Union;

of the European defence industry, ***consolidation and reinforcement of the European single market for defence***, in particular by creating new market opportunities and accelerating the growth of companies throughout the Union;

#### **Amendment 57**

##### **Proposal for a regulation**

##### **Article 13 – paragraph 1 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) contribution to the autonomy of the European defence industry by enhancing defence technologies or products in line with defence capability priorities agreed by Member States within the framework of the Common Foreign and Security Policy;***

#### **Amendment 58**

##### **Proposal for a regulation**

##### **Article 13 – paragraph 1 – point d**

*Text proposed by the Commission*

*Amendment*

(d) contribution to the security and defence interests of the Union in line with the priorities referred to in Article 3 paragraph 2 and, where appropriate, regional and international cooperative agreements;

(d) contribution to the security and defence interests of the Union in line with the priorities referred to in Article 3 paragraph 2 and, where appropriate, regional and international cooperative agreements ***when they serve the Union's security and defence interests;***

#### **Amendment 59**

##### **Proposal for a regulation**

##### **Article 13 – paragraph 1 – point e**

*Text proposed by the Commission*

*Amendment*

(e) contribution to the creation of new

(e) contribution to the creation of new

cross-border cooperation between legal entities, in particular for SMEs which are established in Member States and/or associated countries other than those where the entities in the consortium which are not SMEs are established;

cross-border cooperation between legal entities, in particular for SMEs ***and mid-caps*** which are established in Member States and/or associated countries other than those where the entities in the consortium which are not SMEs ***or mid-caps*** are established, ***in particular taking into account the proportion of the funding allocated to the participating SMEs and mid-caps***;

## **Amendment 60**

### **Proposal for a regulation**

#### **Article 13 – paragraph 1 – point e a (new)**

*Text proposed by the Commission*

*Amendment*

***(ea) contribution, where possible, to reducing the environmental impact of defence products and to providing innovative solutions enabling the phase out of environmentally harmful substances;***

## **Amendment 61**

### **Proposal for a regulation**

#### **Article 13 – paragraph 1 – point f a (new)**

*Text proposed by the Commission*

*Amendment*

***(fa) consistency with technical specifications and international standards to ensure that capabilities developed with financial assistance from the Fund may be interoperable among the Member States and also their regional partners.***

## **Amendment 62**

### **Proposal for a regulation**

#### **Article 14 – paragraph 1**

*Text proposed by the Commission*

1. The Fund may *finance up to 100% of the eligible costs of an action without prejudice to the co-financing principle.*

*Amendment*

1. *Without prejudice to the co-financing principle*, the Fund may:

*(a) finance up to 100% of the eligible costs of an action that takes place ahead of the development of the prototype phase;*

*(b) finance up to 20% of the eligible costs of an action during the prototype phase;*

*(c) finance up to 80% of the eligible costs of an action that takes place beyond the prototype phase.*

**Amendment 63**

**Proposal for a regulation  
Article 14 – paragraph 2**

*Text proposed by the Commission*

2. *By derogation from paragraph 1:*  
*(a) for actions defined in Article 11(3)(e) the financial assistance of the Fund shall not exceed 20% of the eligible costs of the action,*  
*(b) for actions defined in Article 11(3) f) to h) the financial assistance of the Fund shall not exceed 80% of the eligible costs of the action.*

*Amendment*

*deleted*

**Amendment 64**

**Proposal for a regulation  
Article 14 – paragraph 3 – introductory part**

*Text proposed by the Commission*

3. For development actions *the funding rate* shall be increased in the following cases:

*Amendment*

3. *The funding rate* for development actions *enhancing Member States cross-border cooperation* shall be increased in the following cases:



## Amendment 65

### Proposal for a regulation

#### Article 14 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

**3a. By derogation from paragraph 1, the funding rate may be decreased for the actions under point (j) of Article 11(3) relating to dissemination activities, networking events and awareness-raising activities.**

## Amendment 66

### Proposal for a regulation

#### Article 16 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. **Where appropriate**, indirect eligible costs beyond the flat rate of 25 % may be determined in accordance with the beneficiary's usual cost accounting practices on the basis of actual indirect costs provided that these cost accounting practices are accepted by national authorities under comparable funding schemes in accordance with Article [185] of the Financial Regulation and communicated to the Commission.

2. Indirect eligible costs beyond the flat rate of 25 % may be determined in accordance with the beneficiary's usual cost accounting practices on the basis of actual indirect costs provided that these cost accounting practices are accepted by national authorities under comparable funding schemes in accordance with Article [185] of the Financial Regulation and communicated to the Commission.

## Amendment 67

### Proposal for a regulation

#### Article 18 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. **The Union may support** pre-commercial procurement through **awarding** a grant to contracting authorities or contracting entities as defined in Directives 2014/24/EU<sup>18</sup>, 2014/25/EU<sup>19</sup> and 2009/81/EC<sup>20</sup> of the European Parliament and of the Council, which are

1. Pre-commercial procurement **shall be eligible for funding** through **the award of** a grant to contracting authorities or contracting entities as defined in Directives 2014/24/EU<sup>18</sup>, 2014/25/EU<sup>19</sup> and 2009/81/EC<sup>20</sup> of the European Parliament and of the Council, which are jointly

jointly procuring research and development of defence services or coordinating their procurement procedures.

procuring research and development of defence services or coordinating their procurement procedures.

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<sup>18</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC. (OJ L 94, 28.03.2014, p. 65).

<sup>19</sup> Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.03.2014, p. 243).

<sup>20</sup> Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.08.2009, p.76).

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<sup>18</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.03.2014, p. 65).

<sup>19</sup> Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.03.2014, p. 243).

<sup>20</sup> Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.08.2009, p.76).

## Amendment 68

### Proposal for a regulation

#### Article 18 – paragraph 2 – point a (new)

*Text proposed by the Commission*

*Amendment*

*(aa) shall comply with the principles of transparency, non-discrimination, equal treatment, sound financial management, proportionality and competition rules; specific conditions such as the place of performance of the procured activities being limited to the territory of the Member States and of associated countries maybe included;*

## Amendment 69

### Proposal for a regulation

#### Article 18 – paragraph 2 – point b

*Text proposed by the Commission*

(b) may authorise the award of multiple contracts within the same procedure (multiple sourcing);

*Amendment*

(b) may authorise the award of multiple contracts within the same procedure (multiple sourcing); **and**

## Amendment 70

### Proposal for a regulation

#### Article 18 – paragraph 2 – point c

*Text proposed by the Commission*

(c) shall provide for the award of the contracts to the tender(s) offering best value for money.

*Amendment*

(c) shall provide for the award of the contracts to the tender(s) offering best value for money **while ensuring absence of conflict of interest.**

## Amendment 71

### Proposal for a regulation

#### Article 22 – paragraph 3

*Text proposed by the Commission*

3. ***If justified the grant agreement may require that*** the results of actions receiving support from the Fund shall not be subject to any control or restriction, directly or indirectly through one or more intermediate legal entities, including in terms of technology transfer by a non-associated third country or by a non-associated third country entity.

*Amendment*

3. The results of actions receiving support from the Fund shall not be subject to any control or restriction, directly or indirectly through one or more intermediate legal entities, including in terms of technology transfer by a non-associated third country or by a non-associated third country entity.

## Amendment 72

### Proposal for a regulation

#### Article 24 – paragraph 1 – point a

*Text proposed by the Commission*

*Amendment*

(a) the contribution to increasing efficiency across the life cycle of defence products and technologies, including cost-effectiveness and the potential for synergies in the procurement and maintenance process and disposal processes;

(a) the contribution to increasing efficiency across the life cycle of defence products and technologies, including cost-effectiveness and the potential for synergies in the procurement, **usage** and maintenance process and disposal processes;

## **Amendment 73**

### **Proposal for a regulation**

#### **Article 25 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**3a. This Regulation shall not affect the discretion of Member States as regard policy on export of defence-related product.**

## **Amendment 74**

### **Proposal for a regulation**

#### **Article 27 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

**1a. The work programme shall set out in detail the categories of projects to be funded under the Programme and their direct relation to the objectives set out in Article 3.**

## **Amendment 75**

### **Proposal for a regulation**

#### **Article 27 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2a. During the elaboration of the work programmes, and before the award of funding, the Commission shall ensure, through appropriate consultations with the Committee, that the proposed research or development actions avoid duplication**

*with existing capabilities or already funded research or development projects within the Union.*

*In case a duplication is identified, the Commission shall carry out further consultations.*

## Amendment 76

### Proposal for a regulation Article 28 – paragraph 1

*Text proposed by the Commission*

1. The Commission shall be assisted by a committee within the meaning of Regulation (EU) No 182/2011. The European Defence Agency shall be invited as an observer to provide its views and expertise. The European External Action Service shall also be invited to assist.

*Amendment*

1. The Commission shall be assisted by a committee within the meaning of Regulation (EU) No 182/2011. The European Defence Agency shall be invited as an observer to provide its views and expertise. The European External Action Service shall also be invited to assist. ***The European Parliament may select a representative group of Members to assist the committee.***

## Amendment 77

### Proposal for a regulation Article 29 – paragraph 2

*Text proposed by the Commission*

2. Independent experts shall be Union's citizens identified and selected on the basis of calls for expressions of interest addressed to relevant organisations such as Ministries of Defence and subordinated agencies, research institutes, universities, business associations or enterprises of the defence sector with a view to establishing a list of experts. By derogation from Article [237] of the Financial Regulation, this list shall not be made public.

*Amendment*

2. Independent experts shall be Union's citizens, ***from a broad range of Member States*** identified and selected on the basis of ***open and transparent*** calls for expressions of interest addressed to relevant organisations such as Ministries of Defence and subordinated agencies, research institutes, universities, business associations or enterprises of the defence sector, ***non-governmental organisations*** with a view to establishing a list of experts ***that aims to attain gender balance***. By derogation from Article [237] of the Financial Regulation, this list shall not be

made public.

## Amendment 78

### Proposal for a regulation

#### Article 29 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**2a. The Commission should ensure that its relevant rules on avoiding conflicts of interest are applied strictly.**

## Amendment 79

### Proposal for a regulation

#### Article 29 – paragraph 4

*Text proposed by the Commission*

*Amendment*

4. The Committee referred to in Article 28 shall be informed annually on the list of experts.

4. The Committee referred to in Article 28 **and the European Parliament** shall be informed annually on the list of experts.

## Amendment 80

### Proposal for a regulation

#### Article 32 – paragraph 4

*Text proposed by the Commission*

*Amendment*

4. The Commission shall **communicate the conclusions of** the evaluations accompanied by its observations, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

4. The Commission shall **send** the evaluations **as referred to in paragraph 2 and 3**, accompanied by its observations, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

## Amendment 81

### Proposal for a regulation

#### Article 33 – paragraph 1

*Text proposed by the Commission*

Audits on the use of the Union contribution carried out by persons or entities, including by other than those mandated by the Union Institutions or bodies, shall form the basis of the overall assurance pursuant to Article [127] of the Financial Regulation. The European Court of Auditors shall examine the accounts of all revenue and expenditure of the Union according to Article 287 TFEU.

*Amendment*

Audits on the use of the Union contribution carried out by persons or entities, including by other than those mandated by the Union Institutions or bodies, shall form the basis of the overall assurance pursuant to Article [127] of the Financial Regulation. The European Court of Auditors shall examine the accounts of all revenue and expenditure of the Union according to Article 287 TFEU ***including effectiveness of finances spent on projects supported by the Fund.***

**Amendment 82**

**Proposal for a regulation**

**Article 34 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Where a Member State or undertaking invokes national security as a reason for withholding information from OLAF where there is a risk of fraud or other unlawful activity, the national security concerns shall be interpreted strictly.***

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Establishing the European Defence Fund
<b>References</b>	COM(2018)0476 – C8-0268/2018 – 2018/0254(COD)
<b>Committee responsible</b> Date announced in plenary	ITRE 2.7.2018
<b>Opinion by</b> Date announced in plenary	IMCO 2.7.2018
<b>Rapporteur</b> Date appointed	Antonio López-Istúriz White 19.6.2018
<b>Discussed in committee</b>	10.10.2018      5.11.2018
<b>Date adopted</b>	5.11.2018
<b>Result of final vote</b>	+:                    23 –:                    7 0:                    1
<b>Members present for the final vote</b>	John Stuart Agnew, Pascal Arimont, Carlos Coelho, Daniel Dalton, Nicola Danti, Dennis de Jong, Pascal Durand, Evelyne Gebhardt, Maria Grapini, Sergio Gutiérrez Prieto, Philippe Juvin, Morten Løkkegaard, Eva Maydell, Nosheena Mobarik, Jiří Pospíšil, Christel Schaldemose, Andreas Schwab, Jasenko Selimovic, Ivan Štefanec, Richard Sulík, Róza Gräfin von Thun und Hohenstein, Anneleen Van Bossuyt, Marco Zullo
<b>Substitutes present for the final vote</b>	Birgit Collin-Langen, Arndt Kohn, Julia Reda, Martin Schirdewan, Marc Tarabella, Lambert van Nistelrooij
<b>Substitutes under Rule 200(2) present for the final vote</b>	Clara Eugenia Aguilera García, Esther Herranz García



## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

23	+
ALDE	Morten Løkkegaard, Jasenko Selimovic
ECR	Richard Sulík, Anneleen Van Bossuyt
PPE	Pascal Arimont, Carlos Coelho, Birgit Collin-Langen, Esther Herranz García, Philippe Juvin, Eva Maydell, Jiří Pospíšil, Andreas Schwab, Ivan Štefanec, Róza Gräfin von Thun und Hohenstein, Lambert van Nistelrooij
S&D	Clara Eugenia Aguilera García, Nicola Danti, Evelyne Gebhardt, Maria Grapini, Sergio Gutiérrez Prieto, Arndt Kohn, Christel Schaldemose, Marc Tarabella

7	-
ECR	Daniel Dalton, Nosheena Mobarik
EFDD	John Stuart Agnew
GUE/NGL	Martin Schirdewan, Dennis de Jong
Verts/ALE	Pascal Durand, Julia Reda

1	0
EFDD	Marco Zullo

Key to symbols:

+ : in favour

- : against

0 : abstention

## PROCEDURE – COMMITTEE RESPONSIBLE

Title	Establishing the European Defence Fund		
References	COM(2018)0476 – C8-0268/2018 – 2018/0254(COD)		
Date submitted to Parliament	13.6.2018		
Committee responsible Date announced in plenary	ITRE 2.7.2018		
Committees asked for opinions Date announced in plenary	AFET 2.7.2018	BUDG 2.7.2018	IMCO 2.7.2018
Associated committees Date announced in plenary	AFET 5.7.2018		
Rapporteurs Date appointed	Zdzisław Krasnodębski 25.6.2018		
Discussed in committee	3.9.2018	9.10.2018	
Date adopted	21.11.2018		
Result of final vote	+: –: 0:	35 11 14	
Members present for the final vote	Zigmantas Balčytis, Bendt Bendtsen, Xabier Benito Ziluaga, David Borrelli, Jonathan Bullock, Cristian-Silviu Buşoi, Jerzy Buzek, Edward Czesak, Jakop Dalunde, Christian Ehler, Fredrick Federley, Ashley Fox, Adam Gierek, Igor Gräzin, Theresa Griffin, András Gyürk, Barbara Kappel, Krišjānis Kariņš, Jaromír Kohlíček, Peter Kouroumbashev, Zdzisław Krasnodębski, Miapetra Kumpula-Natri, Christelle Lechevalier, Janusz Lewandowski, Paloma López Bermejo, Edouard Martin, Tilly Metz, Angelika Mlinar, Csaba Molnár, Nadine Morano, Dan Nica, Angelika Niebler, Morten Helveg Petersen, Miroslav Poche, Carolina Punset, Paul Rübig, Massimiliano Salini, Algirdas Saudargas, Neoklis Sylikiotis, Patrizia Toia, Evžen Tošenovský, Vladimír Urutchev, Kathleen Van Brempt, Henna Virkkunen, Lieve Wierinck, Hermann Winkler, Anna Záborská, Flavio Zanonato, Carlos Zorrinho		
Substitutes present for the final vote	Amjad Bashir, Soledad Cabezón Ruiz, Françoise Grossetête, Olle Ludvigsson, Marian-Jean Marinescu, Clare Moody, Dennis Radtke, Davor Škrlec		
Substitutes under Rule 200(2) present for the final vote	Michael Detjen, Bolesław G. Piecha, Bronis Ropė		
Date tabled	28.11.2018		

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

35	+
ALDE	Fredrick Federley, Igor Gräzin, Angelika Mlinar, Morten Helveg Petersen, Carolina Punset, Lieve Wierinck
ECR	Edward Czesak, Zdzisław Krasnodębski, Bolesław G. Piecha
ENF	Barbara Kappel
PPE	Bendt Bendtsen, Cristian-Silviu Buşoi, Jerzy Buzek, Christian Ehler, Françoise Grossetête, András Gyürk, Krišjānis Kariņš, Janusz Lewandowski, Marian-Jean Marinescu, Nadine Morano, Angelika Niebler, Dennis Radtke, Paul Rübig, Massimiliano Salini, Algirdas Saudargas, Vladimir Urutchev, Henna Virkkunen, Hermann Winkler, Anna Záborská
S&D	Theresa Griffin, Peter Kouroumbashev, Csaba Molnár, Clare Moody, Dan Nica, Miroslav Poche

11	-
EFDD	Jonathan Bullock
ENF	Christelle Lechevalier
GUE/NGL	Xabier Benito Ziluaga, Jaromír Kohlíček, Paloma López Bermejo, Neoklis Sylikiotis
NI	David Borrelli
S&D	Michael Detjen
VERTS/ALE	Jakop Dalunde, Tilly Metz, Davor Škrlec

14	0
ECR	Amjad Bashir, Ashley Fox, Evžen Tošenovský
S&D	Zigmantas Balčytis, Soledad Cabezón Ruiz, Adam Gierek, Miapetra Kumpula-Natri, Olle Ludvigsson, Edouard Martin, Patrizia Toia, Kathleen Van Brempt, Flavio Zanonato, Carlos Zorrinho
VERTS/ALE	Bronis Ropė

Key to symbols:

+ : in favour

- : against

0 : abstention

