

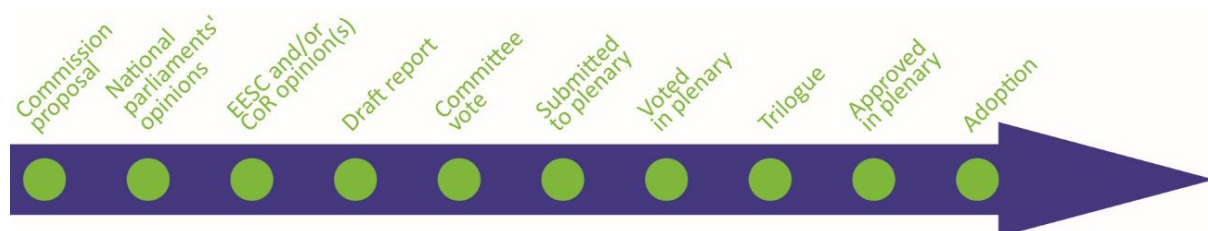
Act in support of ammunition production (ASAP)

OVERVIEW

On 3 May 2023, the Commission put forward a proposal for a regulation establishing the act in support of ammunition production (ASAP). On 9 May 2023, the European Parliament agreed to trigger the urgent procedure under Rule 163 of its Rules of Procedure in order to proceed quickly with the proposal, without a report. On 1 June 2023, the plenary agreed to refer the file back to the Industry, Research and Energy Committee (ITRE), for interinstitutional negotiations on the basis of the Commission proposal unamended. The Council agreed its negotiating mandate on 23 June 2023. On 6 July 2023, the co-legislators reached a political agreement on ASAP, and Coreper confirmed the provisional agreement the following day. The deal was endorsed in Parliament's Committee on Industry, Research and Energy (ITRE) on 9 July. On 13 July the act was adopted in plenary. The final act was signed on 20 July and published in the Official Journal on 24 July.

The ASAP comes in response to Ukraine's request for assistance with the supply of 155-mm-calibre artillery rounds, and the agreement of the Council on 20 March 2023 on a three-track proposal on ammunition. Member States were invited to urgently transfer ammunition from their own stocks to Ukraine (Track 1). They agreed to jointly procure 1 million ammunition rounds (Track 2). Track 3 aims at ramping up production capacity in the European defence industry. This is supposed to be achieved through the ASAP, which responds directly to the Council's call to deliver ammunition urgently, and if requested missiles too, to Ukraine and to help Member States restock their supplies.

Proposal for a regulation of the European Parliament and of the Council on establishing the act in support of ammunition production		
<i>Committees responsible:</i>	Industry, Research and Energy (ITRE)	COM(2023) 237 3.5.2023
<i>Negotiating team:</i>	Jerzy Buzek (EPP, Poland) Carlos Zorrinho (S&D, Portugal) Dominique Riquet (Renew, France) Ville Niinistö (Greens/EFA, Finland) Zdzisław Krasnodębski (ECR, Poland) Paolo Borchia (ID, Italy) Marc Botenga (The Left, Belgium)	2023/0140(COD) Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Procedure completed.</i>	Regulation (EU) 2023/1525 OJ L 185, 24.7.2023, pp. 7–25	



Introduction

In light of the Russian war on Ukraine, there is a specific urgent need for ground-to-ground ammunition, artillery ammunition and missiles, which the Council has [recognised](#). As the media [reports](#) 'Ukraine is burning through ammunition faster than the US and NATO can produce it'. In fact, the Ukrainian military fires 5 000 artillery shells every day, an amount [equal](#) to the annual orders of smaller European states prior to the war. Consequently European defence companies face a surge in demand in the area of ammunition and missiles, requiring them to produce more and faster. The current manufacturing capacity in the European Union is a 'closely guarded [secret](#)'. However, a [document](#) leaked from an EU Member State suggests that maximum production in the EU sits at approximately 230 000 rounds per annum, an amount that Ukraine uses almost every month.

On 2 March 2023, Ukraine sent a [request](#) for assistance to the EU for the supply of 155-mm-calibre artillery rounds. The Council agreed on 20 March 2023 on a [three-track proposal](#) on ammunition, which was [endorsed](#) by the European Council on 23 March 2023. According to Track 1, Member States have been invited to transfer ammunition urgently from their stocks to Ukraine. In order to refill supplies, Member States have agreed to jointly procure 1 million ammunition rounds (Track 2). Track 3 aims at ramping up production capacity in the European defence industry. This is supposed to be achieved through the ASAP, which responds directly to the Council's urgent call to deliver ammunition, and if requested missiles, to Ukraine and to help Member States refill their supplies.

Existing situation

The Russian war on Ukraine has laid bare European armament challenges, with production capacities very low even for the most basic of equipment such as ammunition, as the European defence industry is [geared](#) towards peacetime production. Given the increased needs for defence materiel, exacerbated by EU Member State deliveries to Ukraine, manufacturing capacity needs to be ramped up, not least given the manufacturing lead times for defence equipment. The increased demand for defence material following Russia's invasion of Ukraine has already [led](#) to manufacturers being unable to meet government demands. This is hardly surprising as European defence contractors have long been [used](#) to a situation of 'modest demand, relatively low unit numbers per system, and long lead times for development'. The joint communication on [defence investment gaps](#) of 18 May 2022 had already recognised that severe underinvestment in defence had resulted in both capability and industrial gaps in the EU. This is most acutely the case when it comes to ammunition, as described above. This is exacerbated by the fact that the European defence industry is based on a system of 'built-to-order' as, traditionally, defence contractors in Europe [avoid](#) producing arms without pre-orders due to the very high price of manufacturing, which in turn leads to very long waiting times for advanced defence capabilities. The main issue is that it takes large capital investment and [years](#) to create new plants. For the defence industry to invest such large sums it [needs](#) solid, long-term orders for years to come to make it [worthwhile](#) from an economic perspective. Simply ramping up overnight is not an option.

The European defence industrial base comprises a number of large multinational companies, mid-caps and over [2 000](#) small and medium-sized enterprises (SMEs). The European Defence Agency (EDA) [estimates](#) the sector's turnover at €84 billion in 2021. The European defence technological and industrial base (EDTIB) is [dominated](#) by companies based in France, Germany, Italy, Spain and Sweden. Germany has the [most](#) ammunition and weapons manufacturers followed by Italy and France. The joint defence procurement task force [identified](#) 15 producers in 11 Member States, however almost all of the capacity is already being utilised.

Problematically, the EU defence landscape has long been characterised by severe under-investment and fragmentation. The 21 (now 22) EU Member States that are also North Atlantic Treaty Organization (NATO) members (23 once Sweden joins) have long been guided by the 2 % of gross

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

On a more positive note, following Russia's invasion of Ukraine, the EU Member States have announced significant increases in their defence budgets, [totalling](#) €200 billion over the coming years. Annual defence budgets of EU Member States are [expected](#) to grow to approximately €290 billion annually by 2025 (if new EDA member Denmark is included in the EDA defence data) (in 2021 they were at approximately [€218 billion](#) including Denmark, which only [joined](#) the EDA in March 2023). The coordinated annual review on defence (CARD) report states that if participating Member States 'adhere to the announced increase in expenditure, after 2023 they will have possibly recovered from the underspending of the previous decade'. This presents both opportunities and challenges. On the one hand, there is a much larger budget available to invest in defence. On the other, given the urgency of filling critical capability gaps, there is a real risk that participating Member States will prioritise off-the-shelf purchases from third countries – as has already been the case with [Poland](#) and [Germany](#) for instance – over long-term investments in European collaborative capability projects. This could undermine the EDTIB and result in increased non-EU dependencies.

The European defence industry suffers from fragmented demand and fragmented supply. In terms of demand, the 2022 coordinated annual review on defence (CARD) report observes that only 18 % of investment in defence programmes is done in a collaborative way. Collaborative defence procurement also only [stands](#) at 18 % of total defence procurement. Therefore 82 % of investment in both defence programmes and procurement is done on a national basis. The 2022 CARD report notes that 'cooperation remains the exception rather than the norm', highlighting that a collaborative approach is mainly used when it coincides with national plans, would benefit national defence industries or consolidates a strategic partnership. [Demand](#) comes almost exclusively from national governments for their national industries. Governments also control the totality of acquisition of defence-related products and technologies and also impose rules on their export. This has led a number of national defence companies, operating in small markets, to also produce products in amounts that are wholly inadequate for the current geopolitical environment following Russia's war on Ukraine. This is [exacerbated](#) by the fact that 'defence planning remains stuck at the national rather than at the European or even Atlantic, level'. The [Strategic Compass](#) points to this fact when it notes that EU defence initiatives must become integrated in national defence planning for them to be effective.

According to Daniel [Fiott](#), Head of the Defence and Statecraft Programme at the Centre for Security, Diplomacy and Strategy (CSDS), 'this is an explicit admission that EU Member States are still largely responsible for the fragmentation of the EDTIB and that national defence planning many not yet be responsive to EU-wide capability and technological needs'. While he sees some room for improvement as the EU shifts from a strategic context of conducting primarily crisis management operations towards the defence of Europe, he concurs with an analysis by [Clingendael](#), a think-tank, that 'there is no golden recipe for moving from national to multinational planning and programming'. The experts point out that there is a real coordination problem in European defence planning leading to further fragmentation. The CARD report underlines that the main hindrances to enhanced cooperation are budget availability, complexity of legislation, pressing timelines and the availability of experts. EUISS experts also note that the lack of national buy-in, an overload of

capability development processes (i.e. CARD, PESCO, EDF, capability development plan, headline goals, etc.), and the priority given to NATO defence processes, have made progress [difficult](#).

The lack of collaborative defence investment has staggering financial consequences. A 2022 EPRS [study](#) estimated that more cooperation could save costs of between €24.5 and €75.5 billion a year. It also limits the EU's ability to act: the EDA finds that fragmentation has negative [consequences](#) for Member States' ability to conduct joint operations, an explicit aim of the Strategic Compass and of the common security and defence policy.

On the supply side, the industry is [structured](#) along national borders. There is perennial fragmentation in the EDTIB, especially [outside](#) the aeronautics and missile sector. According to the Commission, this 'greatly reduces its ability to improve its competitiveness through pooling of R&D and economies of scale in production'. The same is true for supply [chain](#) resilience, given that more than 2 500 SMEs play an essential role in the complex defence supply chains in Europe. These supply chains also function largely on a [national basis](#), with limited cross-border cooperation. This fragmentation also leads to costly duplication. European [armies](#) use nearly six times as many systems in total compared to the US. For instance, 17 different types of main battle tanks are [built](#), procured and operated in Europe while the US only manufactures one – the M1 Abrams. The US only has a single main battle tank producer while Europe had six in 2016. This complicates logistics and transnational cooperation on maintenance, as well as [interoperability](#).

Parliament's starting position

In its [resolution](#) of 16 February 2023 marking one year of Russia's invasion and war of aggression against Ukraine, Parliament called for a substantial increase in munitions deliveries to Ukraine.

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

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

In its [resolution](#) of 18 January 2023 on the implementation of the common security and defence policy – annual report 2022, Parliament welcomed the new EU defence initiatives, such as the European defence industry reinforcement through common procurement act (EDIRPA). MEPs called for increased budget and ambition in these initiatives. The joint [report](#) by the Committees on Foreign Affairs and on Industry, Research and Energy on the EDIRPA calls inter alia for an increase in budget, higher funding from the instrument for those countries most affected by the Russian war on Ukraine and for EU countries to be able to take part in joint defence product procurement with Ukraine and Moldova. On 27 June 2023, the co-legislators [reached](#) a political agreement on EDIRPA.

Preparation of the proposal

There is no prior existing legislation precisely dedicated to the ramping-up of production, tackling supply shortages and reducing delivery times. Whereas [Article 41\(2\)](#) of the Treaty on European Union [bans](#) the use of the EU common budget for 'expenditure arising from operations having military or defence implications and cases where the Council acting unanimously decides otherwise'. The legal basis for the ASAP is found in Article [173\(3\) TFEU](#) (support for competitiveness of the European Industry, see box) and Article [114 TFEU](#) (Union-harmonising legislation).

There is EU legislation related to the ASAP. The [European Defence Fund](#) is supposed to boost the competitiveness of the EDTIB by incentivising joint research and development of defence equipment. It uses one of the legal bases of the ASAP (Article 173 TFEU), but also refers to Articles 182, 183 and 188. There is also draft legislation in the field of joint procurement of defence materiel, namely the European defence industry reinforcement through common procurement act ([EDIRPA](#)), awaiting final adoption following agreement in interinstitutional negotiations, which also uses Article 173 – support for competitiveness of European industry – as its legal basis. In addition, the [European Peace Facility](#) – an off-budget fund of €8 billion – allows the procurement of military material, inter alia to support partner countries (e.g. Ukraine), in line with the criteria outlined in the [Council Decision](#) establishing it. In fact, €2 billion from the EPF is being used to finance Track 1 and Track 2 of the three-track ammunition proposal described above.

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

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

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

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

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

{...}

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

At the Versailles Summit on 10 and 11 March 2022, the EU Heads of State or Government [agreed](#) to 'develop further incentives to stimulate Member States' collaborative investments in ... joint projects... of defence capabilities' and to 'take measures to strengthen and develop our defence industry, including SMEs'. The European Council also invited 'the Commission, in coordination with the European Defence Agency, to put forward an analysis of the defence investment gaps by mid-May [2022] and to propose any further initiative necessary to strengthen the European defence industrial and technological base'. This was subsequently reiterated in the [Strategic Compass](#), adopted in March 2022, which also includes additional elements from the Commission [contribution](#) to European defence of 15 February 2022. On 18 May 2022, the Commission and the High Representative presented a [joint communication](#) on the defence investment gaps analysis and way

forward. The communication [identifies](#) gaps in three areas: industry, investment and capabilities. These gaps have been exacerbated by substantial [deliveries](#) of military equipment to Ukraine by EU Member States. One of the Commission and High Representative's proposals to remedy these gaps was the EDIRPA regulation. The Commission proposed the creation of a short-term joint defence procurement instrument worth €500 million; on 19 July 2022, the Commission put forward its proposal for a regulation on establishing the European defence industry reinforcement through common procurement act ([EDIRPA](#)). Negotiations on [EDIRPA](#) concluded in June 2023. EDIRPA seeks to incentivise Member States to jointly procure urgently needed defence products, while ASAP directly supports producers. ASAP will facilitate the ramping-up of the EU's production capacity for ammunition and missiles, to enable the European defence industry to support Ukraine and Member States more effectively.

On the basis of the EDIRPA proposal, the Commission was scheduled to propose a European defence investment programme (EDIP) regulation in the third quarter of 2022, to establish the framework for European defence capability consortia (EDCC) through which Member States would jointly procure defence capabilities, developed in a collaborative way, for use by participants. This proposal has been postponed until autumn 2023.

As recommended in the defence investment gap analysis, the Commission and the High Representative/Head of the European Defence Agency, together with the Member States, established a defence joint procurement task force, which supports coordination and assistance in closing the very short-term procurement needs. The task force [presented](#) its work and interim results on 14 October 2022. Having received the Member States' responses, it defined areas of common interest for possible joint procurement in different areas. These areas were, for instance, ammunition and missiles. As a next step, the task force has been engaging with the European defence industry to [map](#) the supply capacities of the European defence industry to make sure that the identified demand can be met. It [established](#) a 'fairly precise' map of ammunition production capacities in the EU, particularly for artillery shells. The task force identified 15 producers in 11 Member States. However almost all of the capacity is already being utilised. The task force also [found](#) that 'the EU industry has significant manufacturing activity, and potential further capacity, for these products. However, current production within the Union's defence sector is tailored for peacetime'. Nonetheless, the potential of EU industry to produce 155-millimetre ammunition [remains](#) significant, if it can be unlocked.

The European defence industry has already taken first steps to increase ammunition production. For instance, Rheinmetall [announced](#) plans to build new ammunition production facilities in Germany, and [acquired](#) Expal Systems to enhance its manufacturing capacity of artillery and mortar ammunition. Upon finalising the acquisition, Rheinmetall will be [able](#) to increase its production of 155 mm artillery ammunition to 600 000 rounds per year, from the current 450 000 rounds. But not just prime contractors will benefit from increased demand and available funds. One way of ramping up production will be to revive under-producing facilities. For instance, it was announced that Hellenic Defence Systems (EAS) will [receive](#) up to €80 million from the EDF (which will partly fund ASAP) to increase production of 155 mm ammunition at its Lavrio (Greece) production site.

On 2 March 2023, Ukraine sent a [request](#) for assistance to the EU for the supply of 155 mm-calibre artillery rounds. On 20 March 2023, the Council recognised the specific urgent need for ground-to-ground and artillery ammunition, and missiles, in light of the Russian war on Ukraine. It agreed on a [three-track proposal](#) on ammunition (delivery from existing stocks; joint procurement from industry; increasing production), which was [endorsed](#) by the European Council on 23 March 2023. On 13 April 2023, the Council [adopted](#) a €1 billion assistance measure under the European Peace Facility (EPF) – an off-budget fund of €8 billion – to support the Ukrainian army. It will enable the EU to reimburse Member States for ammunition donated to Ukraine from their own existing stocks (Track 1). Member States have [provided](#) 220 000 artillery rounds of different calibres, and 1 300 missiles as of 23 May. On 5 May 2023, the Council [adopted](#) another €1 billion assistance measure (Track 2) under the EPF, to jointly procure ammunition and missiles from the European

defence industry and deliver them to Ukraine. Regarding Track 2, on 20 March 2023, EU Member States and Norway (24 participants as of 1 May 2023) [signed](#) a European Defence Agency (EDA) project arrangement for the collaborative procurement of ammunition. In parallel, complementary projects, led by France and Germany are also [ongoing](#). Track 3 will be fulfilled through the proposed act in support of ammunition production.

The changes the proposal would bring

On 3 May 2023, the Commission put forward the act in support of ammunition production ([ASAP](#)). The ASAP will facilitate the ramping up of the EU's production capacity of ammunition and missiles, to ensure that the European defence industry can support Ukraine and EU Member States better in facing the new security environment. It seeks to ensure timely availability and supply of ground-to-ground and artillery ammunition as well as missiles. The main aims of the act are to:

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

The Commission is proposing a budget of €500 million for the ASAP. This budget will come from the redeployment of the European Defence Fund (EDF) (€260 million) and from the future European defence industry reinforcement through common procurement act ([EDIRPA](#)) (€240 million).

ASAP will support different types of [action](#) contributing to the efforts of the European defence industry to increase their production capacities (Article 8):

- ✓ '[optimising](#), expanding, modernising, upgrading or repurposing existing production capacities;
- ✓ establishing new production capacities;
- ✓ establishing cross-border industrial partnerships, including through public-private partnerships, aiming, for instance, at securing access to or reserving stocks of strategic components or raw materials;
- ✓ building up and making available reserved surge manufacturing capacities;
- ✓ testing or reconditioning (to address obsolescence) processes with a view to making existing ammunition and missiles useable;
- ✓ reskilling and upskilling related workforce.'

In addition, the ASAP will facilitate the provision of financial assistance for EU companies in the field of ammunition and missiles, possibly through a 'ramp-up fund'. This would: 'propose debt solutions, to leverage, de-risk and speed up investments needed to increase manufacturing capacities'.

The instrument will finance up to 40 % of the eligible costs of an eligible action and, by way of derogation, up to 100 % in certain cases (Article 9). Eligible entities must be established in the Union or in an associated country ([European Economic Area](#)), in cases of control by a third country, the entities must fulfil strict criteria in order to be eligible (Article 10). The ASAP is complementary to the future EDIRPA, and existing EU initiatives such as the EDF and permanent structured cooperation ([PESCO](#)) and the [Strategic Compass](#) for security and defence. ASAP and EDIRPA are complementary initiatives, on the supply and demand sides respectively. EDIRPA is designed to incentivise Member States to procure urgently needed defence products jointly, while ASAP directly supports producers in ramping up their production, and their supply chains.

Advisory committees

On 14 June 2023, the European Economic and Social Committee (EESC) [adopted](#) its opinion thus: 'Since the Committee endorses the content of the proposal and feels that it requires no comment on its part, it decided to issue an opinion endorsing the proposed text'.

Stakeholder views¹

A European Council on Foreign Relations expert [notes](#) that the 'Commission is breaking new ground' as the EU will for the first time spend money 'not only on research and development, but indeed to support the defence industry'. He warns however that production is a 'notoriously long-winded process' but does believe that EU initiatives 'give a signal to industry that it is worthwhile investing in this', despite industry concerns that demand may drop off instantly if the war in Ukraine ends. According to a [report](#) by the Munich Security Conference, 'while it is too early to judge its success, the initiative is innovative and could serve as a model for jointly procuring different weapon systems'; the report identifies funding and third-country participation as points of controversy.

Legislative process

On 3 May 2023, the Commission adopted its proposal for an act in support of ammunition production (ASAP). Given its legal basis, the file was assigned to the Committee on Industry, Research and Energy (ITRE), with the Committees on Foreign Affairs (AFET), Internal Market and Consumer Protection (IMCO) and Budgets (BUDG) set to provide opinions. However, BUDG [decided](#) not to give an opinion. MEPs agreed (518 in favour, 59 against and 31 abstentions) to trigger the urgent procedure under [Rule 163](#) of Parliament's Rules of Procedure, so as to proceed quickly with the legislative proposal on the ASAP without a report. The plenary vote on application of the urgent procedure took place during the May I plenary session. A negotiating team with members from each political group was [appointed](#) (see first page). The chair of the European Parliament negotiation team is the chair of the Committee responsible (ITRE): Cristian-Silviu Busoi (EPP, Romania).

Rule 163 of the European Parliament's Rules of Procedure: Urgent procedure

1. A request to treat a debate on a proposal submitted to Parliament pursuant to Rule 48(1) as urgent may be made to Parliament by the President, a committee, a political group, Members reaching at least the low threshold, the Commission or the Council. Such requests shall be made in writing and supported by reasons.
2. As soon as the President has received a request for urgent debate this shall be announced in Parliament. The vote on the request shall be taken at the beginning of the sitting following that during which the announcement was made, provided that the proposal to which the request relates has been distributed to Members in the official languages. Where there are several requests for urgent debate on the same subject, the approval or rejection of the request for urgent debate shall apply to all such requests that are on the same subject.
3. Before the vote, only the mover, and one speaker against may be heard, along with the Chair or rapporteur of the committee responsible, or both. None of those speakers may speak for more than three minutes.
4. Questions to be dealt with by urgent procedure shall be given priority over other items on the agenda. The President shall determine the time of the debate and vote.
5. An urgent procedure may be held without a report or, exceptionally, on the basis of an oral report by the committee responsible.

Where an urgent procedure is used and inter-institutional negotiations take place, Rules 70 and 71 shall not apply. Rule 74 shall apply *mutatis mutandis*.

On 1 June 2023 the European Parliament [decided](#) in plenary to refer the ASAP back to the committee responsible for interinstitutional negotiations (ITRE), on the basis of the unamended proposal for a regulation establishing ASAP. This decision was [adopted](#) by 446 votes to 67, with 112 abstentions, in accordance with the fourth subparagraph of [Rule 59\(4\)](#) of the European Parliament's Rules of Procedure: 'If the whole draft legislative act, amended or otherwise, is adopted, the President shall announce that the first reading has been concluded, unless, on a proposal of the Chair or the rapporteur of the committee responsible or of a political group or Members reaching at

least the low threshold, Parliament decides to refer the matter back to the committee responsible, for interinstitutional negotiations in accordance with Rules 60 and 74'.

On 23 June 2023, the Council [agreed](#) its negotiating [mandate](#). It confirmed the main features of the proposed regulation, notably the budget and the purpose of the instrument. It also supports the proposal by the Commission that a ramp-up fund may be established, which will aim to make it easier for companies involved in producing ammunition and missiles to access private capital. The Council confirms the envisaged objectives of such a fund. However, the Council maintains only parts of the regulatory section of the proposal, for example a derogation from the Defence Procurement Directive. Other parts of the proposal are completely deleted, including inter alia article 13 (Identification of needs, mapping and monitoring of capacities), article 14 (priority rated orders), article 15 (penalties) and article 16 (right to be heard for the imposition of fines or periodic penalty payments), as well as article 20 (Facilitation of intra-EU transfers of defence related products). The Commission has been [accused](#) by a group of Member States of 'overreach on Member States' competencies'. They noted that the Commission 'could not [prove](#) those moves are necessary to speed up ammunition production'. Moreover, the Council confirms the Commission proposal on eligible actions, except for 'improvement of the access to finance by relevant operators' (article 8(3)f), for which also the proposed 100 % financing is scrapped. The other proposed financing rates are preserved.

The European Parliament and Council then began negotiations in order to reach a political agreement. In the meantime, in its conclusions of 29 and 30 June 2023, the European Council recalled the need to strengthen the European defence technological and industrial base. It also welcomed the political agreement reached on EDIRPA on 27 June, called for work to be taken forward on the three tracks on the delivery and joint procurement of ammunition and missiles (described above), especially swift adoption of ASAP. Moreover it called on the Commission to put forward a proposal for an EDIP.

On 6 July 2023 the co-legislators [reached](#) a political agreement on the ASAP. It will urgently mobilise €500 million to support the ramping-up of ammunition production and missiles from the date of entry into force of the Regulation until 30 June 2025. The regulation also provides for up to €50 million to serve as a guarantee for the creation of the aforementioned 'Ramp-up Fund'. The instrument will finance up to 35 % of the eligible costs of an eligible action in the production capacities of relevant defence products. Furthermore, it will finance up to 40 % of the eligible costs of an action relating to the production capacities of components and raw materials on condition that they are used in the production of relevant defence products. An increased funding rate of an additional 10 % will be available where the beneficiary is an SME or mid-cap established in a Member State or associated country or where the majority of participants in an action are SMEs or midcaps.

Eligible entities must be established and have their executive management structures in the Union or an associated country. They must not be controlled by a non-associated third country or non-associated third country entity. Otherwise they must have been subject to a screening in accordance with the FDI Screening [Regulation](#). In such cases, guarantees must be given that an action will not contravene the security and defence interests of the EU and its Member States or the objectives set out in the ASAP Regulation. The instrument shall not support ramp-up action for defence products that are subject to a restriction by a non-associated third country. In addition, action funded by the instrument shall allow for the delivery of outputs to Ukraine.

The Council's Permanent Representatives Committee (Coreper) [confirmed](#) the provisional agreement on 7 July 2023. The deal was [endorsed](#) in Parliament's ITRE committee with 53 votes to 4 and 2 abstentions on 9 July. On 13 July the act was [adopted](#) in plenary with 505 votes to 56 and 21 abstentions.

The final act was signed on 20 July and published in the [Official Journal](#) on 24 July. The regulation entered into force on 25 July 2023.

EUROPEAN PARLIAMENT SUPPORTING ANALYSIS

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

Clapp S., [European Defence Industry Reinforcement through Common Procurement Act \(EDIRPA\)](#), EPRS, European Parliament, May 2023.

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

OTHER SOURCES

European Parliament, [Act in Support of Ammunition Production \(ASAP\)](#), Legislative Observatory (OEIL).

ENDNOTES

- ¹ This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'European Parliament supporting analysis'.

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eprs@ep.europa.eu (contact)

www.eprs.ep.parl.union.eu (intranet)

www.europarl.europa.eu/thinktank (internet)

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