



2019/2204(INI)

29.9.2020

DRAFT OPINION

of the Committee on Foreign Affairs

for the Committee on Internal Market and Consumer Protection

on the implementation of Directive 2009/81/EC, concerning procurement in the fields of defence and security, and of Directive 2009/43/EC, concerning the transfer of defence-related products
(2019/2204(INI))

Rapporteur for opinion: Sven Mikser

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SUGGESTIONS

The Committee on Foreign Affairs calls on the Committee on Internal Market and Consumer Protection, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Highlights that the directives in the Defence Package aim to promote further integration of the EU defence supply chain and increase mutual trust among Member States, transparency, equal treatment and the overall competitiveness of Europe's defence industry;
2. Emphasises that the Commission's evaluation reports concluded in 2016 that both directives have helped to open up the internal market for defence, but that much more progress is needed; calls for more up-to-date evaluations to be conducted; calls on the Member States to fully implement both directives, and on the Commission to ensure full and consistent enforcement;

Directive 2009/81/EC on defence and sensitive security procurement

3. Highlights that an overwhelming percentage of contracts are still awarded nationally; regrets the persistently significant degree of opacity in acquisition practices; deplores the widespread use of exemptions and of offset requirements; calls for the systematic and comprehensive reporting of data by Member States concerning their use of exemptions in order to improve scrutiny; calls for efforts to ensure the effectiveness of infringement procedures;
4. Points to the need to strictly limit the Member States' use of exemptions, and in particular the potentially abusive use of Article 346 TFEU, in order to increase transparency and equality; calls on the Member States to strictly follow the Commission's interpretative guidance as to the conditions under which Article 346 can be invoked;
5. Welcomes the provisions of the directive that aim to foster cooperative procurement in the field of defence, and calls on the Member States to make use of all the cooperation possibilities offered by the directive, notably under the European Defence Industrial Development Programme (EDIDP) and the future European Defence Fund (EDF);
6. Encourages Member States to systematically follow the Commission's 2018 recommendation on cross-border market access for sub-suppliers and SMEs, notably on translating tenders, announcing large procurement programmes in advance, or dividing them into smaller lots;

Directive 2009/43/EC on intra-EU transfers of defence-related products

7. Calls on the Member States to show full political will in ensuring the effective implementation of the directive's provisions;
8. Underlines that a more coherent interpretation and consistent implementation of the EU Common Position on Arms Exports is needed in order to limit fragmentation of the

EU's internal defence market and ensure the EU's credibility as a global actor; calls for action to address any loopholes which may exist among the ICT directive, the Common Position and the Dual-Use Regulation; underlines the necessity for prior authorisation before re-exporting products and components, given the discrepancies in the implementation of the Common Position;

9. Deplores the limited use of the general transfer licences (GTLs); calls on Member States to increase transparency by following more thoroughly the guidelines and recommendations issued by the Commission on which products should be subject to the use of GTLs;
10. Stresses the importance of ensuring the accessibility of the CERTIDER online database and of making data systematically available on intra-EU arms transfers, in order to provide for meaningful scrutiny and to properly assess the implementation of the directive.