



**2022/0219(COD)**

28.3.2023

## **OPINION**

of the Committee on Budgets

for the Committee on Foreign Affairs and the Committee on Industry, Research and Energy

on the proposal for a regulation of the European Parliament and of the Council  
on establishing the European defence industry  
Reinforcement through common procurement act  
(COM(2022)0349 – C9-0287/2022 – 2022/0219(COD))

Rapporteur for opinion: Karlo Ressler

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## SHORT JUSTIFICATION

Russia's invasion of Ukraine has altered the geopolitical situation in Europe dramatically. Following the return of war to European soil, EU Member States have announced significant increases in their defence budgets.

Given the need to support in a timely and targeted manner the Member States for reinforcing their defence capacities in this emergency context, the European Commission proposed to incentivise common procurement via the EU budget through a dedicated Short Term Instrument establishing the European Defence industry Reinforcement through Common Procurement Act (the 'Instrument'). The EU financial support brought through the Instrument should stimulate cooperative defence procurement process from Member States and benefit the European Defence Technology and Industrial Base (EDTIB) while ensuring EU Member States' armed forces' ability to act, security of supply and increased interoperability.

The Rapporteur welcomes the central aims of the proposal as he considers that Member States cooperation in the field of Defence can enhance EU's defensive capabilities and resilience to sudden shocks. The fact of incentivising Member States through the EU budget can contribute to developing a coherent approach in Defence policy and ensure the involvement of Parliament.

This draft opinion focuses on those areas where the Committee on Budgets can add value, therefore in particular on the financial provisions, and provisions relating to budgetary effectiveness in the implementation of the Instrument.

### Implications for the EU budget

The financial envelope for the implementation of the Instrument for the period from 2022 to 2024 is proposed to be **EUR 500 million**. The Commission is proposing to use the entire unallocated margin from Heading 5 (Security and Defence), and to mobilise the Flexibility Instrument for the remaining amount. As the legal act could not be adopted before the end of 2022, the commitment appropriations initially foreseen in 2022 will be shifted to 2024<sup>1</sup> in order to uphold the full amount of EUR 500 million.

The Rapporteur welcomes the fact that this additional Instrument is financed from fresh resources, without undermining existing programmes. The Rapporteur acknowledges that the amount is limited in comparison to the defence budgets in various Member States, but he considers it to be a good starting point towards a more integrated EU Defence policy.

The Rapporteur regrets the lack of flexibility of the ceiling under the 2021-2027 MFF, as the adoption of the current proposal would leave no capacity of reaction to emerging needs in the area of EU Defence in 2023 and 2024<sup>2</sup>.

### Further impact on the 2021-2027 MFF

The return of territorial conflict and high-intensity warfare on European soil requires Member States to rethink their defence plans and capacities for the long-term. In this context, following the creation of the above Instrument, the Commission will propose a European Defence Investment Programme

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<sup>1</sup> This change concerns the amount of EUR 82 972 301 and will be reflected in the Technical Update of Financial Programming to be issued by the Commission in February 2023

<sup>2</sup> Following the adoption of the Commission's proposal, the margin under Heading 5 would be fully depleted until 2025 and would remain limited until the end of the current MFF.

(EDIP) regulation<sup>3</sup>. The EDIP regulation could serve as the anchor for future joint development and procurement projects of high common interest to the security of the Member States and the Union, and by extension of the logic of the short-term instrument, for possible associated Union financial intervention for the reinforcement of the European defence industrial base, in particular for projects which no single Member State could develop or procure alone.

The Rapporteur considers this an opportunity to achieve a greater effectiveness by pulling Member States resources and using the corresponding appropriations at the European level; this would result in the demonstration of European added value and would allow to limit the overall burden of public expenditure in the EU. The Rapporteur reiterates his support for the creation of a European Defence Union, with the objective of complementing the European Defence Fund by an industrial development programme in which Member States invest jointly, in order to eliminate duplication and increase the strategic autonomy and efficiency of the European defence industry.

The Rapporteur recalls however that the Union can be stronger and more ambitious only if additional resources are made available. In light of the current limitations in the 2021-2027 MFF ceilings, and in particular Heading 5, there is no flexibility to provide for the necessary spending to enhance defence cooperation and investment.

The Rapporteur therefore recalls the Parliament's position<sup>4</sup> calling for an increase in the ceiling of Heading 5 and for a swift revision of the MFF to increase EU defence instruments such as the European Defence Fund, military mobility and future joint procurement mechanisms for EU defence, provided that they reinforce the EU's Defence Technological and Industrial Base and ensure European added value. In particular, EDIP should be taken into consideration in the mid-term revision of the MFF, with a view of ensuring the stability, coherence, ambition and long-term financing of EU defence policy.

## AMENDMENTS

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

### Amendment 1

#### Proposal for a regulation

##### Recital 5

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

(5) Such a new instrument will contribute to **reinforce** common defence procurement and, through the associated Union financing, to **strengthen** EU defence industrial capabilities.

###### *Amendment*

(5) Such a new instrument will contribute to **reinforcing** common defence procurement and, through the associated Union financing, to **strengthening** EU defence industrial capabilities, **cooperation**

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<sup>3</sup> EDIP is listed as a possible item for the College agenda of 21 June 2023

<sup>4</sup> 2022/2046 (INI): Upscaling the 2021-2027 Multiannual Financial Framework: a resilient EU budget fit for new challenges

*in procurement operations and to achieving the Union's objectives for strategic autonomy. In order to ensure coherence of the Instrument with other aspects of the European defence policy, such as the European Defence Fund, the financial envelope of the Instrument should be drawn from the unallocated margins under the MFF ceilings as well as mobilised through the non-thematic MFF special instruments, thereby avoiding any cuts to other Union programmes.*

## Amendment 2

### Proposal for a regulation Recital 7

#### *Text proposed by the Commission*

(7) In the current defence market context, marked by an increased security threat and the realistic perspective of a high intensity conflict, Member States are rapidly increasing their defence budgets and aiming at similar purchases. This results in an amount of demand which exceeds European Defence Technological and Industrial Base manufacturing capacities, currently tailored for peace time.

#### *Amendment*

(7) In the current defence market context, marked by an increased security threat and the realistic perspective of a high intensity conflict, Member States are rapidly increasing their defence budgets and aiming at similar purchases. This results in an amount of demand which exceeds European Defence Technological and Industrial Base manufacturing capacities, currently tailored for peace time. ***The lack of coordination and cooperation regarding procurement could contribute to price increases, which could have the effect that increasing national defence budgets would not lead to stronger military capabilities.***

## Amendment 3

### Proposal for a regulation Recital 9

#### *Text proposed by the Commission*

(9) Furthermore, efforts should be made so that the increased spending results

#### *Amendment*

(9) Furthermore, efforts should be made so that the increased spending results

in a much stronger European Defence Technological and Industrial Base. Indeed, without coordination and cooperation, the increased national investments are likely to deepen the fragmentation of the European defence industry.

in a much stronger, ***coordinated and interoperable*** European Defence Technological and Industrial Base. Indeed, without coordination and cooperation, the increased national investments are likely to deepen the fragmentation of the European defence industry ***exposing the Union further to external dependencies***.

#### Amendment 4

##### Proposal for a regulation Recital 11 a (new)

*Text proposed by the Commission*

*Amendment*

***(11a) Moreover, common investments should be focused on enhancing common defence production capacities, thereby consolidating the EU industrial base, addressing the most critical needs, ensuring interoperability, providing a long-term perspective for the Union industry's competitiveness. This should result in strengthening EU defence capacities, including in Member States in the direct neighbourhood of a war zone, and benefiting the security of the Union citizens.***

#### Amendment 5

##### Proposal for a regulation Recital 12 a (new)

*Text proposed by the Commission*

*Amendment*

***(12a) In view of the rapidly evolving security dynamics in the context of the war in Ukraine, the Instrument should allow for the participation of EU candidate countries, for example the Moldova, in common defence procurement, as their participation would strengthen defence capacities and ultimately contribute to European defence***

*preparedness.*

## Amendment 6

### Proposal for a regulation

#### Recital 17

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

(17) In certain circumstances, it should be possible to derogate from the principle that contractors and subcontractors involved in a common procurement supported by the Instrument are not subject to control by non-associated third countries or non associated third-country entities. In that context, a legal entity established in the Union or in an associated third country and controlled by a non-associated third country or a non-associated third country entity may participate as contractor and subcontractor involved in the common procurement if 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***.

##### *Amendment*

(17) In certain circumstances, it should be possible to derogate from the principle that contractors and subcontractors involved in a common procurement supported by the Instrument are not subject to control by non-associated third countries or non associated third-country entities. In that context, a legal entity established in the Union or in an associated third country and controlled by a non-associated third country or a non-associated third country entity may participate as contractor and subcontractor involved in the common procurement if 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). ***The principle*** of strengthening the European Defence Technological and Industrial Base ***should be considered as a priority in the procurement procedures***.

## Amendment 7

### Proposal for a regulation

#### Recital 18

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

(18) Furthermore, the common procurement procedures and contracts shall also include a requirement for the defence product to not be subject to control or restriction by a non-associated third country or a non-associated third country

##### *Amendment*

(18) Furthermore, the common procurement procedures and contracts shall also include a requirement for the defence product to not be subject to control or restriction by a non-associated third country or a non-associated third country

entity.

entity ***in order to hinder any kind of interference through the defence product.***

## Amendment 8

### Proposal for a regulation Recital 19

#### *Text proposed by the Commission*

(19) Grants under the Instrument may take the form of financing not linked to cost based on the achievement of results by reference to work packages, milestones or targets of the common procurement process, in order to create the necessary incentive effect.

#### *Amendment*

(19) Grants under the Instrument may take the form of financing not linked to cost based on the achievement of results by reference to work packages, milestones or targets of the common procurement process, in order to create the necessary incentive effect ***provided that the Union does not co-finance the defence product itself which would be non-compliant with the Instrument's legal base and primary law.***

## Amendment 9

### Proposal for a regulation Recital 23

#### *Text proposed by the Commission*

(23) In accordance with Article 193(2) of the Financial Regulation, a grant may be awarded for an action which has already begun, provided that the applicant can demonstrate the need for starting the action prior to signature of the grant agreement. However, financial contribution should not cover a period prior to the date of submission of the grant application, except in duly justified exceptional cases. In order to avoid any disruption in Union support which could be prejudicial to the interests of the Union, it should be possible to provide in the financing decision for financial contributions to actions that cover a period from the 24 February 2022, even if they have started before the grant

#### *Amendment*

(23) In accordance with Article 193(2) of the Financial Regulation, a grant may be awarded for an action which has already begun, provided that the applicant can demonstrate the need for starting the action prior to signature of the grant agreement. However, financial contribution should not cover a period prior to the date of submission of the grant application, except in duly justified exceptional cases. In order to avoid any disruption in Union support which could be prejudicial to the interests of the Union, it should be possible to provide in the financing decision for financial contributions to actions that cover a period from the 24 February 2022, even if they have started before the grant application was submitted ***and as long as it***



application was submitted.

*can be demonstrated that the prospect of the Union funding incentivised cooperation between the Member States concerned. Such retroactivity is an exceptional measure justified by Russia's war of aggression against Ukraine and should not be extended to other programmes.*

## **Amendment 10**

### **Proposal for a regulation Recital 24**

*Text proposed by the Commission*

(24) Regulation (EU, Euratom) No 2018/1046 (the ‘Financial Regulation’) applies to this Programme. It lays down rules on the implementation of the Union budget, including the rules on grants.

*Amendment*

(24) Regulation (EU, Euratom) No 2018/1046 (the ‘Financial Regulation’) applies to this Programme. It lays down ***clearly defined*** rules on the implementation of the Union budget, including the rules on grants.

## **Amendment 11**

### **Proposal for a regulation Recital 25 a (new)**

*Text proposed by the Commission*

*Amendment*

***(25a) In the current context of Russia's war of aggression against Ukraine, any consideration to further reinforce budgetary appropriations of this Instrument and extend its duration, based on documented reporting of its implementation rate, should be envisaged in the context of the 2021-2027 MFF revision.***

## **Amendment 12**

### **Proposal for a regulation Recital 27 a (new)**

*Text proposed by the Commission*

*Amendment*

***(27a) Deepening cooperation among Member States at the Union level in defence-related areas should go hand-in-hand with the strengthening of parliamentary oversight and control by both the European Parliament and national parliaments.***

## **Amendment 13**

### **Proposal for a regulation**

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

*Text proposed by the Commission*

(a) to foster the competitiveness and efficiency of the European Defence Technological and Industrial Base (EDTIB) for a more resilient Union, in particular by speeding up, in a collaborative manner, the adjustment of industry to structural changes, including ramp-up of its manufacturing capacities;

*Amendment*

(a) to foster the competitiveness and efficiency of the European Defence Technological and Industrial Base (EDTIB) for a more resilient Union, in particular by speeding up, in a collaborative manner, the adjustment of industry to structural changes, including ramp-up of its manufacturing capacities ***and the opening of the supply chains throughout the Union;***

## **Amendment 14**

### **Proposal for a regulation**

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

*Text proposed by the Commission*

(b) to foster cooperation in defence procurement process between participating Member States contributing to solidarity, interoperability, prevention of crowding-out effects, avoiding fragmentation and increasing the effectiveness of public spending.

*Amendment*

(b) to foster cooperation in defence procurement process between participating Member States contributing to solidarity, interoperability, prevention of crowding-out effects, avoiding fragmentation and increasing the effectiveness of public spending ***in the Union and its Member States.***

## **Amendment 15**

**Proposal for a regulation**  
**Article 4 – paragraph 1**

*Text proposed by the Commission*

1. The financial envelope for the implementation of the Instrument for the period from the entry into force of this Regulation to 31 December 2024 shall be EUR 500 million in current prices.

*Amendment*

1. The financial envelope for the implementation of the Instrument for the period from the entry into force of this Regulation to 31 December 2024 shall be EUR 500 million in current prices, ***drawn from the unallocated margins under the MFF ceilings and mobilised through the non-thematic MFF special instruments, without cuts from ongoing programmes.***

**Amendment 16**

**Proposal for a regulation**  
**Article 4 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. The amount referred to in paragraph 1 shall not be used to co-finance the defence product.***

**Amendment 17**

**Proposal for a regulation**  
**Article 4 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. Resources allocated to Member States under shared management may, at their request, be transferred to the Instrument subject to the conditions set out in the relevant provisions of the Common Provisions Regulation for 2021-2027. The Commission shall implement those resources directly in accordance with point (a) of the first subparagraph of Article 62(1) of Regulation (EU, Euratom) No 2018/1046 (the ‘the Financial Regulation’). Those resources shall be used for the benefit of the Member State concerned.

3. Resources allocated to Member States under shared management may, at their request, be transferred to the Instrument subject to the conditions set out in the relevant provisions of the Common Provisions Regulation for 2021-2027. The Commission shall implement those resources directly in accordance with point (a) of the first subparagraph of Article 62(1) of Regulation (EU, Euratom) No 2018/1046 (the ‘the Financial Regulation’). Those resources shall be used for the benefit of the Member State concerned.  
***Those resources shall be counted over***

*and above the amount referred to in paragraph 1.*

## **Amendment 18**

### **Proposal for a regulation Article 5 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 5a**

#### ***Additional procurement arrangements for EU candidate countries***

***The Instrument shall also be open to EU candidate countries, such as Moldova, to participate in common defence procurement, in cooperation with a Member State, and in accordance with the provisions of this Regulation.***

## **Amendment 19**

### **Proposal for a regulation Article 6 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. The EU funding shall incentivize the cooperation between Member States to fulfil the objectives referred to in Article 3. The financial contribution shall be set up taking into consideration the collaborative nature of the common procurement plus an appropriate amount to create the incentive effect necessary to induce cooperation.

2. The EU funding shall incentivize the cooperation between Member States ***and between Member States and third countries mentioned at Article 5 herein*** to fulfil the objectives referred to in Article 3 ***and shall contribute to the modernization of the European defence industry***. The financial contribution shall be set up taking into consideration the collaborative nature of the common procurement plus an appropriate amount to create the incentive effect necessary to induce cooperation. ***In order to guarantee budgetary effectiveness, the Union financial contribution from this Instrument to each action shall not exceed 20 % of the estimated value of the procurement contract.***

## Amendment 20

### Proposal for a regulation Article 6 – paragraph 4

*Text proposed by the Commission*

4. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of the Financial Regulation.

*Amendment*

4. Grants implemented under direct management shall be awarded and **thoroughly** managed in accordance with Title VIII of the Financial Regulation.

## Amendment 21

### Proposal for a regulation Article 11 – paragraph 2

*Text proposed by the Commission*

2. The Commission shall, by means of **an implementing** act, adopt the work programme referred to in paragraph 1. **The implementing act shall be adopted in accordance with the examination procedure referred to in Article 14 paragraph 3.**

*Amendment*

2. The Commission shall, by means of **a delegated** act, adopt **a delegated act in accordance with Article 13a in order to supplement this Regulation by establishing** the work programme referred to in paragraph 1.

## Amendment 22

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

*Text proposed by the Commission*

3. The work programme shall set out the minimum financial size of the joint procurement actions **and determine** the indicative amount of financial support for actions carried out by the minimum number of Member States as referred to in point c) of Article 7 paragraph 1 **as well as** incentives for procurement of higher value and inclusion of additional Member States or associated countries.

*Amendment*

3. The work programme shall set out:

(a) the minimum financial size of the joint procurement actions;

- (b) the indicative amount of financial support for actions carried out by the minimum number of Member States as referred to in point c) of Article 7 paragraph 1;
- (c) incentives for procurement of higher value and inclusion of additional Member States or associated countries;
- (d) *the funding priorities in line with the needs referred to in Article 3 paragraph 2;*
- (e) *a description of actions involving cooperation for common procurement;*
- (f) *the estimated value of the common procurement;*
- (g) *the procedure for evaluation and selection of the proposals;*
- (h) *a precise description of milestones needed to measure progress in implementing the respective action or results as well as associated amounts for disbursement;*
- (i) *the arrangements for the verification of milestones and disbursement process throughout the implementation of the respective action.*

## Amendment 23

### Proposal for a regulation Article 12 – paragraph 2

*Text proposed by the Commission*

2. The report shall build on consultations of Member States and key stakeholders and shall, in particular, assess the progress made towards the achievement of the objectives set out in Article 3.

*Amendment*

2. The report shall build on consultations of Member States and key stakeholders and shall, in particular, assess the progress made towards the achievement of the objectives set out in Article 3 *and be based on a set of key performance indicators. By ... [3 months after the entry into force of this Regulation] the Commission shall adopt a delegated act in accordance with Article 13a, in order to supplement this Regulation by laying*

*down a set of key performance indicators.*

## **Amendment 24**

### **Proposal for a regulation**

#### **Article 13 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 13a**

##### **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 Articles 11 and 12 shall be conferred on the Commission for a period of two years from ... [date of entry into force].**
- 3. The delegation of power referred to in Articles 11 and 12 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.**
- 5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.**
- 6. A delegated act adopted pursuant to Article(s) ... 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.*



## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Establishing the European defence industry reinforcement through common procurement act	
<b>References</b>	COM(2022)0349 – C9-0287/2022 – 2022/0219(COD)	
<b>Committees responsible</b> Date announced in plenary	AFET 12.9.2022	ITRE 12.9.2022
<b>Opinion by</b> Date announced in plenary	BUDG 12.9.2022	
<b>Rapporteur for the opinion</b> Date appointed	Karlo Ressler 13.9.2022	
<b>Rule 58 – Joint committee procedure</b> Date announced in plenary	19.1.2023	
<b>Discussed in committee</b>	9.2.2023	
<b>Date adopted</b>	28.3.2023	
<b>Result of final vote</b>	+: –: 0:	33 1 1
<b>Members present for the final vote</b>	Rasmus Andresen, Pietro Bartolo, Olivier Chastel, Andor Deli, Pascal Durand, José Manuel Fernandes, Eider Gardiazabal Rubial, Vlad Gheorghe, Valérie Hayer, Niclas Herbst, Adam Jarubas, Joachim Kuhs, Zbigniew Kuźmiuk, Pierre Larroustou, Camilla Laureti, Janusz Lewandowski, Margarida Marques, Siegfried Mureşan, Victor Negrescu, Andrey Novakov, Dimitrios Papadimoulis, Karlo Ressler, Bogdan Rzońca, Eleni Stavrou, Nils Torvalds, Nils Ušakovs, Angelika Winzig	
<b>Substitutes present for the final vote</b>	Francisco Guerreiro, Fabienne Keller, Monika Vana	
<b>Substitutes under Rule 209(7) present for the final vote</b>	Karolin Braunsberger-Reinhold, Daniel Caspary, Daniel Freund, Isabel García Muñoz, Andreas Glück	

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

33	+
ECR	Zbigniew Kuźmiuk, Bogdan Rzońca
NI	Andor Deli
PPE	Karolin Braunsberger-Reinhold, Daniel Caspary, José Manuel Fernandes, Niclas Herbst, Adam Jarubas, Janusz Lewandowski, Siegfried Mureşan, Andrey Novakov, Karlo Ressler, Eleni Stavrou, Angelika Winzig
Renew	Olivier Chastel, Vlad Gheorghe, Andreas Glück, Valérie Hayer, Fabienne Keller, Nils Torvalds
S&D	Pietro Bartolo, Pascal Durand, Isabel García Muñoz, Eider Gardiazabal Rubial, Pierre Larroustou, Camilla Laureti, Margarida Marques, Victor Negrescu, Nils Ušakovs
Verts/ALE	Rasmus Andresen, Daniel Freund, Francisco Guerreiro, Monika Vana

1	-
ID	Joachim Kuhs

1	0
The Left	Dimitrios Papadimoulis

Key to symbols:

+ : in favour

- : against

0 : abstention