



OPINION

European Economic and Social Committee

Defence reinforcement through procurement

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) 349 final]

CCMI/200

Rapporteur-General: **Maurizio MENSI**

Co-rapporteur General: **Jan Pie**

www.eesc.europa.eu

EN

Referral	Council, 22/07/2022 European Parliament, 12/09/2022
Legal basis	Article 173(3) of the Treaty on the Functioning of the European Union
Section responsible	Consultative Commission on Industrial Change
Adopted at plenary	21/09/2022
Plenary session No	572
Outcome of vote (for/against/abstentions)	155/1/13

1. **Conclusions and recommendations**

- 1.1 The EESC welcomes the proposal for a regulation on establishing the European defence industry Reinforcement through common Procurement Act (EDIRPA) to quickly strengthen Europe's defence industries and defence capabilities with reference to the immediate challenges that result from the Russian invasion of Ukraine.
- 1.2 The EESC supports the EDIRPA objectives to improve the European defence industrial and technological base (EDTIB) in terms of efficiency and rapid response to emergencies for a more resilient Union and to foster Member States' cooperation and interaction in defence procurement. Both objectives are more important than ever in a situation where war is back in Europe and society in general also needs to be adequately protected with the outlook of possible future tensions at strategic level.
- 1.3 The EESC considers that EDIRPA is useful to better structure and orchestrate the current peak of demand for urgent off-the-shelf equipment but cannot be considered as a precursor of a future European Defence Investment Programme, as it is a rather weak instrument in terms of industrial policy.
- 1.4 The EESC agrees that action is needed to speed up, in a collaborative manner, the adjustment of industry to structural changes, including the ramp-up of its manufacturing capacities, in order to help European industry to satisfy the increased demand of Member States in a timely manner.
- 1.5 The EESC also believes that joint procurement is needed to avoid that increased national defence investments deepen the fragmentation of the European defence sector, limit the potential for cooperation, intensify external dependencies and hamper interoperability, therefore ensuring that all Member States' can rapidly satisfy their most urgent capability needs revealed or exacerbated by the response to the Russian aggression against Ukraine.
- 1.6 At the same time, the EESC believes that replenishment of stocks often implies the replacement of products sent to Ukraine with exactly the same products. Such purchases may not have an important structuring impact on industry, nor do they drive technological innovation. The EESC therefore questions whether the logic of EDIRPA should be directly extended to a future European Defence Investment Programme.
- 1.7 The EESC welcomes the approach to incentivise joint procurement by direct financial support from the EU budget, but doubts whether the financial envelope of EUR 500 million will be sufficient to make a difference in Member States' procurement decisions.
- 1.8 The EESC wonders about the effectiveness of using the financial support for technical and administrative assistance for the implementation of the instrument, but also of granting subsidies in the form of financing not linked to cost; we therefore call upon the co-legislators to clarify this method to ensure the efficiency of EU spending.
- 1.9 The EESC welcomes that EU financial support is limited to procurement of defence products made in the EU or associated countries, and the specific conditions for EU companies under

third-country control. Such limitation is in the interest of European taxpayers and necessary to achieve the objective of strengthening European defence industrial capabilities and in line with the objective of strategic autonomy.

- 1.10 At the same time, the EESC calls for a flexible interpretation of the requirement for the defence product not to be subject to a restriction by a non-associated third country (entity). Since EDIRPA covers off-the-shelf procurement and aims to address the most urgent product needs, the EESC believes that this requirement is less pertinent for EDIRPA than for the EDF (the European Defence Fund), which aims at the development of future capabilities. It should therefore be implemented carefully, balancing the search for greater autonomy against the urgency of the procurement and the need for interoperability with existing equipment.
- 1.11 The EESC supports the envisaged implementation in direct management, but stresses the need to ensure that the competent Commission services obtain in time the necessary human resources to cope with the workload that this implies.
- 1.12 The EESC calls upon Member States to closely cooperate with the Defence Joint Procurement Task Force established by the European Commission and the High Representative/Head of the European Defence Agency in order to guarantee the successful implementation of the EDIRPA.

2. **Background**

- 2.1 At their meeting in Versailles on 11 March 2022, EU Heads of State or Government committed to "bolster European defence capabilities" in light of the Russia's military aggression against Ukraine. The Versailles declaration states that Member States should increase defence expenditures, step up cooperation through joint projects, close shortfalls and meet capability objectives, boost innovation including through civil/military synergies, and strengthen the EU defence industry. Moreover, the European Council invited "the Commission, in coordination with the European Defence Agency, to put forward an analysis of the defence investment gaps by mid-May and to propose any further initiative necessary to strengthen the European defence industrial and technological base".
- 2.2 In response to this invitation, the European Commission and the High Representative presented on 18 May 2022 a Joint Communication on the Defence Investment Gaps Analysis and Way Forward. The Joint Communication notes that years of severe underinvestment in defence led to industrial and capability gaps in the EU and to the current low levels of defence equipment stocks. The transfers of defence equipment to Ukraine, combined with a level of stocks tailored to peacetime, has resulted into the emergence of urgent and critical gaps in terms of military equipment.
- 2.3 The Joint Communication recalls that Member States need to restore defence combat readiness as a matter of urgency in light of the security situation and of transfers already made to Ukraine. Replenishment of stocks of material would also enable them to provide further assistance to Ukraine. At the same time, the Joint Communication calls upon Member States to buy the necessary defence equipment and material in a collaborative way. Joint procurement of urgently needed products would provide greater value for money, enhance interoperability and avoid that

exposed Member States face an impossibility to obtain what they need, because of conflicting demands on the defence industry, which cannot respond to such a demand surge in the short term.

- 2.4 Against this background, the Joint Communication proposes to incentivise common procurement via the EU budget through a dedicated Short-Term Instrument. The EU financial support brought through this Instrument should stimulate cooperative defence procurement from Member States and benefit the EDTIB, while ensuring European armed forces' ability to act, security of supply and increased interoperability.
- 2.5 Responding to the urgency of the situation, the Commission presented, on 19 July 2022, a proposal for such an Instrument in the form of a regulation establishing the European Defence industry Reinforcement through Common Procurement Act (EDIRPA). The Commission counts on a swift adoption of the regulation and its entry into force by the end of 2022.
- 2.6 Following the creation of the Instrument, the Commission intends to propose a regulation for a European Defence Investment Programme (EDIP). According to the Commission, 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 that no single Member State could develop or procure alone.

3. **General comments**

- 3.1 The Union's geopolitical context has changed dramatically in light of the Russia's military aggression against Ukraine. The return of territorial conflict and high-intensity warfare on European soil requires Member States to rethink their defence plans and capacities. This must come along with an adjustment of the underpinning industrial and technological base, which should be enabled to support and strengthen Member States' armed forces, which are a fundamental tool of a mature democracy, protecting the freedom of European citizens.
- 3.2 The EESC welcomes the announced increases of Member States' defence expenditures to rapidly close urgent military gaps. However, without coordination and cooperation, these increases risk deepening the fragmentation of the European defence sector, limit the potential for cooperation throughout the life cycle of the purchased equipment and hamper interoperability. Moreover, choices made on short-term acquisitions often have a longer-term impact on the market strength of the EDTIB and opportunities for the next decades.
- 3.3 The EESC therefore supports the initiative to incentivise joint procurement of the most urgent defence product needs. Joint procurement seems particularly important in the current situation, where a sudden increase of demand for similar products meets an industrial supply side that is still tailored for peace time and hence struggling to satisfy the demand. Cooperation in defence procurement is therefore necessary to ensure solidarity between Member States, enhance interoperability, prevent crowding-out effects and improve the effectiveness of public spending.

- 3.4 It is equally important to help industry adjust to the structural changes of the new security environment. Since the necessary strengthening of Europe's military capabilities is a long-term effort, and continuous support for Ukraine may become necessary for a longer period, the EDTIB will have to ramp-up its manufacturing capacities. This is necessary to cope with the current peak of demand, but also beyond this.
- 3.5 In this respect, the EESC believes that the proposed EDIRPA is too limited in its approach, scope and financial envelope to make a difference in strengthening Europe's industrial capacities. The replenishment of stocks limits by definition the choice of products and suppliers, EUR 500 million for 27 Member States over two years is a rather modest investment.
- 3.6 In short, the EESC believes that the proposed regulation can make a useful contribution to better structure and orchestrate the current peak of demand for urgent off-the-shelf equipment, but is a rather weak instrument in terms of industrial policy. Consequently, the EESC does not believe that EDIRPA should necessarily be considered as a precursor of a future European Defence Investment Programme, which is announced as an instrument to support joint procurement of and for jointly developed systems during their entire life cycle.

4. **Specific comments**

- 4.1 According to the proposal, the EDIRPA will take into account the work of the Defence Joint Procurement Task Force established by the Commission and the High Representative/Head of the European Defence Agency. The Task Force is supposed to facilitate coordination of Member States' very short-term procurement needs and engage with Member States and EU defence manufacturers to support joint procurement to replenish stocks. The work of this Task Force is therefore crucial for the success of EDIRPA, and the EESC calls upon Member States to make full use of it.
- 4.2 The EESC doubts that the proposed budget envelope is large enough to influence Member States procurement decisions substantially. At the same time, we are fully aware of the financial pressure on the current MFF, and the need for additional funding for a future EDIP. Against this background, it will be particularly important to focus the limited EDIRPA funding on the most relevant joint procurements.
- 4.3 Related to budget constraints and selection of projects, the EESC questions how the concept of financing not linked to cost can be applied in practice to the purchases aimed at under EDIRPA. The EESC also wonders about the effectiveness of using the budget for technical and administrative assistance for the implementation of the instrument.
- 4.4 The EESC supports the envisaged implementation in direct management, but stresses the need to ensure that the competent Commission services obtain in time the necessary human resources to cope with the workload that this implies.
- 4.5 The EESC agrees on the eligibility criteria of the proposed regulation, in particular the possibility to expand already existing procurement contracts.

- 4.6 The EESC also supports the additional condition to limit EU funding to the procurement of equipment made in the EU or associated countries, including by companies under third country (entity) control that can provide security guarantees by the Member State in which they are located. This condition replicates the relevant EDF provisions and ensures fulfilment of the objective of strengthening the EDTIB.
- 4.7 At the same time, the EESC questions the importance of the requirement for the defence product not to be subject to a restriction by a non-associated third country (entity). Since the proposed instrument covers off-the-shelf procurement and aims to address the most urgent product needs, this requirement seems less pertinent for EDIRPA than for the EDF, which aims at the development of future capabilities and for which technological sovereignty is a declared objective. The EESC therefore calls for a flexible interpretation of this provision, leaving it for Member States to balance the search for operational freedom against the urgency of the purchase and the interoperability with existing equipment.
- 4.8 Finally, the EESC wonders about the suitability of certain proposed award criteria, namely those which concern the positive impact of the procurement on the EDTIB. Given the focus on the most urgent needs and off-the-shelf procurement of rapidly available equipment, this impact is probably not a major criterion for Member States, unless the contractor is located on their own territory. Moreover, buying Member States will probably find it difficult to demonstrate the positive impact on the EDTIB, in particular when urgency is the primary concern.

Brussels, 21 September 2022

Christa Schweng
The president of the European Economic and Social Committee
