Studies in Law and Justice
ISSN 2958-0382
www.pioneerpublisher.com/slj
Volume 4 Number 4 August 2025

Funding and Proposals of the European Commission for Resources in the Field of European Defense Policy

Dimitris Liakopoulos[1]

[1] Director of the CEIJ, New York, US
Correspondence: Dimitris Liakopoulos, Director of the CEIJ, New York, US.

doi:10.56397/SLJ.2025.08.05

Abstract

The present paper aims to highlight another stage of integration, that is, the field of defense policy. The investigation is based on the White Paper that was adopted in March of 2025 and on the related new proposals that it offered for defense financing. The main topic is the European resources that each EU Member State can offer and especially in our days that the need is even higher given the situation in Ukraine. News and/or steps backwards in the defense sector is still very early to say. It depends on the Member States to take a position on the matter as well as to decide whether defense is truly one of the leading policies in the context of the EU.

Keywords: defense financing, European Union law, ReArm Europe, European Commission, European Parliament, safe, NGEU, sure

1. Introduction

The extraordinary European Council of 4 March 2025 was convened to decide on the support of Ukraine and on the prospects of European defense (Meletidis, 2024). The President of the European Commission spoke to about yet another five-point plan dedicated to the better functioning of defense with the name of ReArm Europe. [1] A one more initiative that was proposed by the European Council[2] with the support of the European Parliament through a Resolution of 12 March[3] that was included in the White Paper on European defense of 2030. It was presented by the European Commission and by the High Representative for Foreign Affairs and Security Policy (Dermine, 2025; Famà, 2025; Markakis, 2025; Vecchio, 2025; Hampton, 2025).[4]

The interest in the ReArm Europe plan and the White Paper was undoubtedly a consequence of a communication strategy that was chosen for the so-called plan also bringing back a debate on

[1] Press statement by President von der Leyen on the defence package, https://ec.europa.eu/commission/presscorner/detail/en/statement_25_673

[2] Extraordinary meeting of the European Council (6 March 2025) – Conclusions, EUCO 6/25: https://www.consilium.europa.eu/en/press/press-releases/2025/03/06/special-european-council-6-march-2025/

[3] European Parliament resolution of 12 March 2025 on the White Paper on the future of European defence (2025/2565(RSP)): https://www.europarl.europa.eu/doceo/document/TA-10-2025-0034_EN.html

[4] Joint White Paper on European Defence Readiness 2030, JOIN(2025) 120 of 19 March 2025: https://eda.europa.eu/news-and-events/news/2025/03/19/joint-white-paper-for-european-defence-readiness-2030

the defense of the European continent and the contribution of the policies of the European Union and the related leading role of the European Commission. An institution that had no competence in defense policy, therefore, in the previous weeks responded to the cessation of American support for Ukraine and to the related disengagement of a new American administration that respects the collective security in Europe and not only.

The White Paper and previous interventions by the European Commission and by the High Representative[1] highlighted the deterioration of a strategic context that characterized the increase and intensification of threats to European security, the birth and strengthening of a base characterized the industrial technology of the European defense. Giving voice to the previous programmatic documents and especially to the strategic compass, the Council in March 2022 adopted the Fund for the action of the Union in the field of security and defense for the period 2022-2030. [2] The proposed interventions identified the creation of a sufficient capacity that prevented aggressive war within a time frame of five years.[3] The White Paper recognized the competence that defined the national armed forces to the Member States. The White Paper also suggests the role of the Union which consists in supporting the coordination of the efforts of the Member States in strengthening the industrial base for the defense of the Union including the European contributions and the collective defense of NATO. The reference to other objectives and the support of Ukraine has created a single market for defense products that correspond to the relevant proposals[4] which call the White Paper to find the necessary resources and thus support, or rather increase defense spending at a national level.

The proposals of the President of the European Commission and the ReArm Europe plan, as well as the White Paper, therefore, identified some important pillars for the intervention. Pillars such as: establishing a financial instrument to support investments; the coordinated activation for the national safeguard clause and the Stability and Growth Pact; -review and cohesion to facilitate the commitment of European funds and investments in the defense sector, and; -a political review of cohesion that facilitates the use of European funds for investments in the defense sector as well as interventions by the European Investment Bank and the creation of private investments. The legal profiles of the White Paper and the regulatory proposals focus on measures that call for, identify elements of greater novelty, which highlight the main problematic issues. The axes of intervention pre-order create incentives for private investment. As regards the action of the European Investment Bank, it notes that the White Paper includes objectives of doubling annual investments to operate projects on drones, space, cybersecurity, new technologies, military structures and civil protection, as well as the revision of eligibility criteria that limit the scope and excluded activities as much as possible, as well as the revision of the Group's operating framework and the introduction of a specific objective of a public policy that contributes to the peace and security of Europe.

The White Paper reported that the Board of Directors of the EIB followed several measures adopted two days later, i.e. on 21 March 2025.[5] The proposals for private investments as well as the European Commission have addressed the communication strategy of the Union on savings

[1] Commission Reflection Paper on the Future of European Defence, COM(2017) 315 final of 7 June 2017: https://commission.europa.eu/publications/reflection-paper-future-european-defence_en; Joint Communication to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions on the Defence Investment Gap Analysis and Way Forward, JOIN(2022) 24 final of 18 May 2022: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52022JC0024

[2] Council of the European Union, A strategic compass for security and defence – For a European Union that protects its citizens, values and interests and contributes to international peace and security, doc. 7371/2022, 21 March 2022: https://www.eeas.europa.eu/eeas/strategic-compass-security-and-defence-1_en

[3] Joint White Paper on European Defence Readiness 2030, op. cit., p. 5.

[4] Joint White Paper on European Defence Readiness 2030, op. cit., p. 10.

[5] EIB steps up financing for European security and defence and critical raw materials, https://www.eib.org/en/press/all/2025-156-eib-steps-up-financing-for-european-security-and-defence-and-critical-raw-materials

for investments presented by the White Paper,[1] which has not yet been formulated a specific legislative proposal.

2. Towards the Establishment of an Instrument for the Security Action for Europe (SAFE) and Art. 122 TFEU

The measures on support for investments in the defence sector were undoubtedly based on the establishment of an instrument for the Security Action for Europe (SAFE) as well as on the related strengthening of industry and defence.[2] The Security Action for Europe was conceived as a specific instrument for the financing of defence investments by the Member States. It guaranteed the budget of the Union, i.e. a total allocation of 150 billion euros. The SAFE is modelled on a European instrument for temporary support to mitigate risks for unemployment in a state of emergency (SURE) as was established by Regulation (EU) 2020/672 of the Council,[3] which allowed the Union to grant financial assistance to Member States for the support of social safety nets after the contraction of a labour market following the spread of the past epidemic of COVID-19.

The legal basis of the new instrument was based on Art. 122 TFEU (Kellerbauer, Klamert & Tomkin, 2024) without making a distinction between the first and second paragraph, on Regulation (EU) 2020/672 and on the establishment of SURE according to Regulation (EU) 2020/2094 to establish a recovery instrument within the scope of the next generation EU (NGEU) plan. The connection with Art. 122 TFEU is placed within the trend of European institutions that resort to a provision for the adoption of interventions within the scope of economic policy (De Witte, 2021; Chamon, 2023; Dermine, 2024; Chamon, 2024; Panaschì, 2024; Weber, 2024). This solution follows the establishment of the European fund that establishes the financial, namely the European Financial Stability Facility (EFSF).[4] Art. 122, par. 2 TEU adopts measures of intervention on the energy market to ensure security for the related supplies and for prices in the months following the aggression in Ukraine.[5]

Art. 122 TFEU is composed of two distinct legal bases. On the one hand we have the procedure that is based on the treaties, on the Council after proposal of the European Commission that decides according to the spirit of solidarity between Member States, as well as on the appropriate measures for the economic situation thus arising difficulties in the supply of products in the energy sector. On the other hand, Paragraph 2 allows the Council to make a proposal on the European Commission in order to grant, according to certain conditions, a financial assistance, i.e. when an EU Member State is in serious difficulties due for example to natural disasters or due to exceptional circumstances beyond its control.

From a jurisprudential point of view, we recall the Pringle case that the Court of Justice of the European Union (CJEU) used to establish the relevant mechanism for permanent aid.[6] Art. 122, par. 2 TFEU has a limited scope for interventions in emergency situations. Thus, the conditions that constrain and recall the notion of force majeure are required, which subordinates the granting of assistance in the form of conditionality. Paragraph 1 instead highlights the measures appropriate to the economic situation that have different content for the granting of financial assistance. The provision thus authorizes interventions of an emergency nature and considers, includes measures of a

[1] Communication from the Commission to the European Parliament, the European Council, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions, Savings and Investments Union. A Strategy to Foster Citizens' Wealth and Economic Competitiveness in the EU, COM(2025) 124 final: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52025DC0124

[2] Proposal for a Regulation establishing the Security of Europe (SAFE) Instrument by strengthening the European Defence Industry, COM(2025) 122 final: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52025PC0122

[3] Council Regulation (EU) 2020/672 of 19 May 2020 on the establishment of a European instrument for temporary support to mitigate unemployment risks in an emergency (SURE) following the COVID-19 outbreak, ST/7917/2020/INIT, OJ L 159, 20.5.2020, p. 1–7: https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32020R0672

[4] Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism, OJ L 118, 12.5.2010, p. 1–4: https://eur-lex.europa.eu/eli/reg/2010/407/oj/eng

[5] Council Regulation (EU) 2022/1369 of 5 August 2022 on coordinated demand-reduction measures for gas, ST/11568/2022/INIT, OJ L 206, 8.8.2022, p. 1–10: https://eur-lex.europa.eu/eli/reg/2022/1369/oj/eng. Council Regulation (EU) 2022/1854 of 6 October 2022 on an emergency intervention to address high energy prices, ST/12521/2022/INIT, OJ L 261I, 7.10.2022, p. 1–21: https://eur-lex.europa.eu/eli/reg/2022/1854/oj/eng

[6] CJEU, 27 November 2012, C-370/12, Pringle, ECLI:EU:C:2012:756, published in the electronic Reports of the cases, par. 65.

structural nature. In this spirit, we recall the Germany v. Poland case relating to the OPAL gas pipeline. In this regard, the CJEU has qualified the procedures envisaged under Art. 122 and 222 TFEU, i.e. a precise emergency mechanisms that use the principle of energy solidarity.[1] Limiting art. 1 to interventions of an emergency nature means to make use of the escape clause, as well as of provisions of the relevant treaty. This is an orientation which, on the basis of historical and systematic arguments, denies the emergency nature of Art. 122, par. 1 TFEU as well as supporting the provision which offers a general legal basis for economic policy interventions.

From an institutional point of view, the interpretation of the proposal to establish SAFE is adapted by an approach arguing that the measure legitimizes Art. 122 TFEU as a requirement to increase defense spending. This applies to exceptional situations that do not allow Member States to exercise relative control, which in reality escapes their scrutiny (Weber, 2024). The emergency logic is evident and respects the interventions adopted to counter the economic consequences after the pandemic as well as the increase in energy prices in 2022. The factor qualified as emergency can be found in the solidity of the Atlantic Alliance.[2]

The European Commission implicitly refers to a continued deterioration of the security of the Union from the beginning of 2025 (Erlanger, 2025). The formulas in the proposal and in the accompanying report, according to the SAFE, seem to mark the respect of instruments based on the same legal basis and on the interpretative evolution of Art. 122, in the sense of openness towards interventions of a structural nature. The objective of the proposal and the entire plan that outlines the White Paper responds to the investment that recognizes the European institutions from the geopolitical point of view for security reasons in the European continent, that escape the control of the Member States, that with difficulty qualifies as an exceptional circumstance.[3]

The Americans have asked the European partners of NATO to increase defense spending because of the continuous wars that are increasing in the planet (Guardian, 2025). A position that responds in the defense policy of the US (Becker, Kuokštytė & Kuokštis, 2023). Another point of discussion was the choice of the proposed regulation. This discussion was based on Art. 122 TFEU, which concerns the relationship with other legal bases. More precisely, Art. 122, par. 1 TFEU opens a safety clause with other provisions of the treaties that resorts to the measures that find a different legal basis of a temporary nature for urgent measures that do not adopt in a timely manner the prescribed procedure.[4] The proposed regulation is based on SAFE. The nexus of economic policy is undoubtedly based in comparison with measures that are based on Art. 122 TFEU after the pandemic crisis. The measure of economic policy and of industrial policy is limited to the common security and defense policy which is defensible to the structure of the instrument which does not create a fund which is based on existing resources, according to the budget of the Union, because it generates debt to support public investments.

The extensive interpretation, within the scope of application and on legal bases that are provided for by Art. 122 TFEU, ends up in the transformation of an exceptional nature as a sort of general legal basis, that applies interventions that go beyond the scope of an economic policy and involve a series of implications at the level of interinstitutional relations and institutional balance. The procedures that are provided for by the paragraphs of Art. 122 TFEU attribute a decision-making power, that excludes the Council after a proposal of the European Commission and with the exclusion of the European Parliament of the decision-making process. Within this perspective, the legal basis defines the procedure that is applicable and necessary for the organization of the functioning, that representative democracy assumes, according to Art. 10, par. 1 TEU. The fundamental choice for economic policy makes the direct involvement for the institution evident, that represents for citizens the decision-making process.

3. Structure of SAFE and Use of Contributions

1 CJEU, 15 July 2021, C-848/19 P, Germany v. Poland, ECLI:EU:C:2021:598, published in the electronic Reports of the cases, par. 62.

2 Recital 10 of the proposal for a regulation COM (2025) 122 final, op. cit.

3 Proposal for a regulation COM (2025) 122 final, op. cit. par. 4.

4 CJEU, 24 October 1973, 5/73, Balkan Import Export GmbH v. Hauptzollamt Berlin Packhof, ECLI:EU:C:1973:109, I-01091, par. 15.

The SAFE found by the European Commission uses loans on capital markets,[1] according to the programs of SURE and NGEU. The solution envisages and marks a step in the direction that makes the use of supranational public debt structural, according to the case of SURE and NGEU that conceives the non-repeatable emergency solution.

The resources that are collected by the European Commission on capital markets and granted to the Member States require the model that is followed by NGEU and that includes loans of a subsidized nature. The burden of the debt was contracted by the European Commission and weighs on the Member States that use the instrument without a mutualization of the related debt. The Member States use loans that schedule the repayment that affects the medium term for public finance policies. The relative finding of resources on capital markets by the Union has an advantage that offers lower interest rates that respect the issuance of national debt securities for the Member States that are burdened by a high public debt.

The difference between NGEU and SAFE bridges and covers a time frame that does not coincide with the Multiannual Financial Framework after the deadline of 2027 and when the availability for loans ends on 31 December 2030.[2] Another difference that respects the NGEU is the absence of a fixed position for resources that reflects the propensity for Member States to resort to loans. Thus, the proposal as a guarantee clause limits the loans granted to the three Member States that obtain a higher percentage of 60% of the total endowment of their instrument.[3]

The loans earmarked clarify that SAFE does not finance initiatives of a transnational nature for research and development, such as the purchase of existing products for the period 2025-2030, which indicates the implementation of the rearmament plan. The proposed regulation establishes that Member States request financial assistance for activities, expenditure and measures related to defence and defence products through joint procurement.[4] Products relevant to a wide range of munitions and missiles, such as artillery systems, drones and anti-drone systems, protection of critical infrastructures, etc., are solutions for cybersecurity and the protection of space resources, artificial intelligence and electronic warfare.

The actions eligible for funding products that are purchased by Member States are the only antidote to the fragmentation of interventions at national level as well as a condition for the resources allocated, that are used through joint procurement and are carried out by two Member States, i.e. a Member State and/or an EFTA state, according to the EEA Agreement, or a Member State and Ukraine.[5]

The procurement topic is common to at least two states and is subject to a derogation for the twelve months after the entry into force of the relevant regulation.[6] This is a factor that encourages the relative rush for spending by Member States that do not want to participate in joint acquisitions. Art. 16 of the proposal defines the eligibility criteria for participation in joint procurements that outline a protectionist framework. They establish, in this way, the subcontractors that are involved in the procurement. In this way, the relationship of the Union with the EFTA-EEA and/or Ukraine cannot be controlled by other Member States.[7] These states form the basis of an agreement of the Union for countries sharing the same principles as acceding countries, candidate countries other than Ukraine, potential candidates and other third countries with the Union established by a partnership in the field of security and defence.

The general rule of establishment of the Union to an EFTA-EEA state and in Ukraine is subject to exceptions when the entity controlling third states and entities establishing a third country to participate in procurement procedures are subject to screening according to Regulation (EU) 2019/452 on the screening of foreign direct

[1] Proposal for a regulation COM (2025) 122 final, op. cit.

[2] Art. 12, par. 1 of Proposal for a regulation COM (2025) 122 final, op. cit.

[3] Art. 13 of Proposal for a regulation COM (2025) 122 final, op. cit.

[4] Art. 4, par. 1 of Proposal for a regulation COM (2025) 122 final, op. cit.

[5] Art. 2, n. 3 of Proposal for a regulation COM (2025) 122 final, op. cit.

[6] Art. 4, par. 3 of Proposal for a regulation COM (2025) 122 final, op. cit.

[7] Art. 17, par. 1 of Proposal for a regulation COM (2025) 122 final, op. cit.

investments.[1] Guarantees are thus provided that a Member State of establishment ensures that its involvement does not conflict with the security, defence interests of the Union and its Member States. [2] The guarantees demonstrate the presence of measures that are appropriate and prevent access to third countries that are subject to third countries and to classified information.[3]

4. Budgetary Constraints and the Stability and Growth Pact

The White Paper constitutes a short-term objective without requiring the specific adoption of new legislative measures regarding the coordinated activation of the national safeguard clause that is provided for by Art. 26 of Regulation (EU) 2024/1263, i.e. the new Stability and Growth Pact (De Haan & Amtenbrink, 2023; Oraheimo & Paasikallio, 2023).[4] A provision that thus constitutes elements of flexibility as well as allows the adoption by the Council after a request from a Member State and upon recommendation of the European Commission: "(…) that allows a Member State to deviate from the net expenditure path established by the Council (…) exceptional events outside the control of the Member State have significant repercussions on its public finances (…) deviation does not compromise budgetary sustainability in the medium term (…)". The safeguard clause allows Member States to increase their defense spending by resorting to a derogation in debt for the parameters relating to the ratio between public debt and gross domestic product, i.e. 60% between public deficit and gross domestic product, or 3% of net expenditure.

The European Commission communication accompanying the White Paper and the activation of the national safeguard clause for Member States call for a deviation in the spending path, that is agreed for a period of four years starting from 2025 and is also extendable.[5] The related use of the clauses based on Art. 26 of the multi-year investment pact programme highlights a spending path that is established for exceptional circumstances beyond the control of a Member State. The interpretation of Art. 122 TFEU, as an objective relating to the rearmament of Member States functions responds to threats beyond their control, thus constituting an objective of an emerging structural nature. The conditions based on Art. 26 of Regulation 2024/1263 are stringent and call for the activation of a general safeguard clause, which constitutes in various ways an appropriate solution that allows for the general increase in national investments in the defence sector. This is a serious negative situation for the Eurozone and the Union as a whole that is considered inapplicable (Dermine, 2025). The flexibility granted to national budgets by means of activation of the safeguard clause for the European Commission awaits the contribution in a significant way within the terms of financial commitment that strengthens the capabilities for defense of the Member States.

The press release of 4 March 2025 highlighted the average increase in defence spending that corresponds to overall investments exceeding 650 billion euros within four years. The communication clarifies the percentage that constitutes the maximum agreed expenditure.[6] The increased voluntary indebtedness is unlikely for all Member States that make use of the principle of flexibility granted for the easing of the pact, that reaches the investment objective suggested by the European Commission.

Fiscal space is granted to Member States that request the preservation of sustainability for public budgets in the medium term. The increase in defense investments protects financial stability and leads to a differentiated application of safeguard and flexibility clauses for states and especially for those of the eurozone by virtue of a strong indebtedness and

[1] Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union, PE/72/2018/REV/1, OJ L 79I, 21.3.2019, p. 1–14: https://eur-lex.europa.eu/eli/reg/2019/452/oj/eng

[2] Art. 16, par. 4 of Proposal for a regulation COM (2025) 122 final, op. cit.

[3] 6 Art. 16, par. 5 of Proposal for a regulation COM (2025) 122 final, op. cit.

[4] Regulation (EU) 2024/1263 of the European Parliament and of the Council of 29 April 2024 on the effective coordination of economic policies and on multilateral budgetary surveillance and repealing Council Regulation (EC) No 1466/97, PE/51/2024/REV/1, OJ L, 2024/1263, 30.4.2024: https://eur-lex.europa.eu/eli/reg/2024/1263/oj/eng

[5] Communication from the Commission, Accommodating increased defence expenditure within the Stability and Growth Pact, C(2025) 2000 final of 19 March 2025, p. 6: https://defence-industry-space.ec.europa.eu/document/download/a57304ce-1a98-4a2c-aed5-36485884f1a0_en?filename=Communication-on-the-national-escape-clause.pdf

[6] Communication from the Commission, Accommodating increased defence expenditure within the Stability and Growth Pact, C (2025) 2000 final, op., cit., p. 3.

systemic risks that derive from the monetary area and then spread to the financial markets. The proposed solution is inefficient and entails for Member States lower spending margins that do not fill the investment gaps in their defense capabilities within the unsustainable debt (Beetsma, Bitu & Nicoli, 2025; Guttenberg & Redeker, 2025).

It is clear that this type of flexibility lacks adequate coordination and direction tools that risk solving problems of duplication and inefficiency for defense spending. The resources of SAFE are pre-ordained to acquire products, defense equipment for Member States that are lacking and highlight the European Defense Agency.[1] The relaxation of budget constraints in the Stability and Growth Pact leaves Member States greater autonomy for the allocation of their resources. Flexibility concerns investments for current defense spending, also covering investments in equipment for armed forces and infrastructure for expenses, i.e. for the increase in military personnel and training.[2]

This is "free" spending since the pact conditions the definition of spending path as well as the individual priorities within the framework of a European semester. Already Art. 13, lett. c) of Regulation 2024/1263 asks Member States for the national structural plans of the medium-term budget thus ensuring the implementation of reforms and investments, as a response to individual challenges within the European context. In such a way, the recommendations of each country have to do with the common priorities of the Union as a way for development and defense capacity. It thus occurs that the European Commission is able to address some choices for Member States relating to shared priority resources. These are cooperative solutions that limit duplication. The coordination of economic policies within a framework of the European semester and conditionality as foreseen by the NGEU does not offer other encouragement for empirical studies that report a poor effectiveness for instruments oriented to public investments especially at national level (Efstahiou, 2018; Kaniok, 2025).

[1] European Defence Agency, The 2023 EU Capability Development Priorities, https://eda.europa.eu/docs/default-source/brochures/qu-03-23-421-en-n-web.pdf.

[2] Communication from the Commission, Accommodating increased defence expenditure within the Stability and Growth Pact, C (2025) 2000 final, op., cit., p. 4.

5. Reviewing Cohesion Policy

Funds Related to the European Defence Structure

The White Paper concerns cohesion policy, which aims to free up other resources in a flexible way to the Member States, namely structural funds distributed within the 2021-2027 programming framework. The European Commission allows for a mid-term review of the programming cycle, thus proposing the extension of the objectives pursued for the European Regional Development Fund (ERDF), as well as for the cohesion funds.[3]

The proposed amendments, according to the Regulation (EU) 2021/1058,[4] introduce new objectives for both funds concerning the strengthening and industrial capabilities to produce goods and dual use of a defense capability as well as the development for infrastructures regarding mobility in the military sector.[5] The related reasoning concerns objectives relating to defense capability. They go beyond the relationship that considers the recital 5 of the proposed regulation as well as the support of the defense industry that: "(…) technological development and production of defense products and other products for defense purposes (…)" are defined through the proposal of the regulation SAFE. The proposal also intervenes on objectives of a cohesion policy, increase of resources for defense that identifies an urgent priority for the European Commission that arises a discussion and approval for the proposal that waives the vacatio legis of twenty days for the entry of its regulation.[6]

This is a proposal that puts forward[7] the decision that redirects part of the resources

[3] Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) 2021/1058 and (EU) 2021/1056 as regards specific measures to address strategic challenges in the context of the mid-term review, COM(2025) 123 final of 1st April 2025: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52025PC0123

[4] Regulation (EU) 2021/1058 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund, PE/48/2021/INIT, OJ L 231, 30.6.2021, p. 60–93: https://eur-lex.europa.eu/eli/reg/2021/1058/oj/eng

[5] Art. 1 of Proposal for a regulation COM (2025) 122 final, op. cit.

[6] Art. 3 and recital 20 of Proposal for a regulation COM (2025) 122 final, op. cit.

[7] Recital 5 of Proposal for a regulation COM (2025) 122 final, op. cit.

towards the defense industry of each member state. This component strengthens defense and limits Member States in using in flexible way the financial resources that come from the budget of the Union. Other tools that are indicated by the White Paper provide for not all Member States to make intensive use of this component. The proposal observes the evolution of the cohesion policy within the course of the last two cycles of its programming. After an extensive reading of the notion of economic, social and territorial cohesion the Union uses tools that are offered by the cohesion policy, in function of a plurality of objectives that are transversal to various different sectors of intervention.[1] The ecological and digital transition constitutes the components of the NGEU. The proposal thus allows the use of structural funds for investments within the consolidated defense sector. This is a trend that confirms the profound evolution of the purpose of a cohesion policy as a tool for leveling territorial and social inequalities. In other words, it is a vehicle that achieves general objectives of economic and industrial policy.

6. Conclusions

As we have understood so far, the White Paper suggests further relationships for the defense policy and for material policies of the Union relating to the role of the European Commission within the related process of strengthening the capabilities of the Member States in the defence sector. The sense of novelty is generated by public opinion. The White Paper is, therefore, accompanied by initiatives that have long been a topic of discussion.

The establishment of a fund that finances the issuance of a common debt relating to the derogation and/or the constraints of public finances provided for by the stability and growth plate, responds to requests that have long been raised by several Member States. They are expressed by the heads of the European institutions starting from 2023[2] and the vote of approval from the European Commission.[3] Such measures are placed through initiatives that are already assumed by the European institutions in recent years in the sector of industrial policy.

In 2021, the Union legislator established the European Defence Fund. Its objective was to support research projects for industrial development and defence, as a financial endowment that is relative to consist of eight billion euros in 2021.[4] The fund thus supports projects that implement new technologies for defence with a different connection that intervenes on acquisitions. It establishes an instrument for the strengthening of the European defence industry through joint procurement (EDIRPA).[5] This is an initiative that increases the urgency of production for ammunition and artillery, missiles that support defence especially in Ukraine (Caranta, 2023) thus adopting the Regulation for the production of ammunition (ASAP).[6]

The European Commission in March 2024 presented a proposal for regulation and the establishment of a European Defence Industry Programme (EDIP) through a complex system that replaces EDIRPA and ASAP with various other permanent mechanisms. It introduces, in this way, procedures that identify investment priorities to respond to the difficulties of defence products as well as supporting the industry and

[1] L. Di'z Sànchez, Why Cohesion Policy is not about Cohesion, in CMLR, 2025, p. 13 ss.

[2] European Defence Agency, President Michel calls for 'defence bonds' at EDA Annual Conference 2023. https://eda.europa.eu/news-and-events/news/2023/11/30/president-michel-calls-for-'defence-bonds'-at-eda-annual-conference-2023

[3] Committee on Regional Development, Confirmation hearing of Raffaele Fitto, Executive Vice-President-designate of the European Commission (Cohesion and Reforms). https://hearings.elections.europa.eu/documents/fitto/fitto_verbatimreporthearing-original.pdf

[4] Regulation (EU) 2021/697 of the European Parliament and of the Council of 29 April 2021 establishing the European Defence Fund and repealing Regulation (EU) 2018/1092 (Text with EEA relevance), PE/11/2021/INIT, OJ L 170, 12.5.2021, p. 149–177:https://eur-lex.europa.eu/eli/reg/2021/697/oj/eng

[5] Commission Implementing Decision (EU) 2023/2378 of 28 September 2023 postponing the expiry date of the approval of alpha chloralose for use in biocidal products of product-type 14 in accordance with Regulation (EU) No 528/2012 of the European Parliament and of the Council, C/2023/6418, OJ L, 2023/2378, 3.10.2023: https://eur-lex.europa.eu/eli/dec_impl/2023/2378/oj/eng

[6] Regulation (EU) 2023/1525 of the European Parliament and of the Council of 20 July 2023 on supporting ammunition production (ASAP), PE/46/2023/REV/1, OJ L 185, 24.7.2023, p. 7–25: https://eur-lex.europa.eu/eli/reg/2023/1525/oj/eng

defence in Ukraine.[1] According to the legal basis, that was identified in Art. 173 TFEU to a provision with other provisions of treaty, the defence capacity for the Member States is strengthened through financial incentives, that are consistent with the use of resources that come from the budget of the Union thus conditioning the creation of other forms of cooperation that decrease the national defence markets (Meershoe, 2021).

Interventions in the industrial policy create a new public debt at a national level, which loosens the constraints imposed by the new Stability and Growth Pact. It occurs through the issuance of a debt by the Union that allocates and burdens to the Member States, that decide to borrow from the resources collected such as SAFE. This is a dimension and an action of the Union that aims at the greater mobilization of resources that are for the Member States the basis for investing in the defense sector in an intense manner and with different modalities.

European defense refers to documents that are analyzed above.[2] It is presented by the European Commission as well as by the Council of Europe in order to examine and see the European defense according to Art. 42, par. 2 TEU (Graf Von Kielmansegg, 2017). This is an important step for the EU that refers to the common defense policy (Wolff, Steinbach & Zettelmeyer, 2025) without coordinating Member States' defense policies.

The proposing measures by the White Paper constitute a paradoxical reflection that follows the current integration process. The competence in defense matters makes progress towards an authentic European defence in the hands of the Member States. On the one hand, the autonomy of the Member States defines important aspects for defense policy and for spending decisions, industrial policy through policies and instruments of the Union that lead to conditions and limitations. The objective that strengthens the defense capabilities for the Member States allows economies of scale, that is, the use of resources in forms of cooperation within the framework of European policies.

After the pandemic, the Union's responses in the sector are the SURE and NGEU programmes. They are extended by the Union's support for public investments by Member States, i.e. they go beyond the traditional boundaries of cohesion policy which offers a model that looks at and defines the structure of interventions that are foreseen through the White Paper. Such proposals consider and guide the creation of European public goods. Within this context, the European Commission highlights the relative flexibility for expenditure and the new European financing instruments, thus contributing to the investment choices of Member States on a basis of governance by funding (De Witte, 2023). This facilitates the adoption of a new regulation that has as its objective for the European Commission advanced competences for the industrial policy and defence. In this regard, the risk remains and ends within the Union's framework for maintaining peace and collective security in Europe, i.e. the main role for a public resource body.

[1] Proposal for a Regulation of the European Parliament and of the Council establishing the European Defence Industrial Programme and a framework of measures to ensure the timely availability and supply of defence-related products (EDIP), COM(2024) 150 final of 5 March 2024: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52024PC0150

[2] Recital 5 of the Proposal COM (2025) 123 final, op. cit.

References

Becker, J., Kuokštytè, R., Kuokštis, K. (2023). The Political Economy of Transatlantic Security. A Policy Perspective. *The Economists' Voice,* 56ss.

Beetsma, R., Buti, M., Nicoli, F. (2025, March 18). The problem of missing European public goods from the ReArm Europe plan. *Bruegel.* https://www.bruegel.org/first-glance/problem-missing-european-public-goods-rearm-europe-plan

Caranta, R. (2023). The EU's Role in Ammunition Procurement. *European Parliament,* 1047ss.

Chamon, M. (2023). The use of Article 122 TFEU — Institutional implications and impact on democratic accountability, Study for the AFCO Committee. https://www.europarl.europa.eu/thinktank/en/document/IPOL_STU(2023)753307

Chamon, M. (2024). The Non-emergency Economic Policy Competence in Article 122 TFEU. *Common Market Law Review*, *61*(6), 1502ss.

De Haan, J., Amtenbrink, F. (2023). The Reform of the European Fiscal Rules: In Search of Mechanisms Ensuring Sustainable Debt

Level. *The Economists' Voice,* 172ss.

De Witte, B. (2021). The European Union's COVID-19 Recovery Plan: The Legal Engineering of an Economic Policy Shift. *Common Market Law Review*, *67*(3), 636ss.

De Witte, B. (2023). Integration through Funding: The Union's Finances as a Policy Instrument. In R. Weber (ed.), *The Financial Constitution of European Integration.* Oxford University Press, Oxford, 222ss.

Dermine, P. (2024, January 23). Article 122 TFEU and the future of the Union's emergency powers. *EU Law Live:* https://eulawlive.com/op-ed-article-122-tfeu-and-the-future-of-the-unions-emergency-powers-by-paul-dermine/

Dermine, P. (2025, March 5). Funding Europe's Defence a First Take on the Commission's ReArm Europe Plan. *Verfassungsblog.* https://verfassungsblog.de/rearm-europe-law/

Efstathiou, K., Wolff, G.B. (2018). Is the European Semester effective and useful?. *Bruegel Policy Contribution, no. 2018/09*. https://www.econstor.eu/bitstream/10419/208014/1/1028805942.pdf

Erlanger, S. (2025, February 27). Indifference or Hostility? Trump's View of European Allies Raises Alarm. *New York Times.* https://www.nytimes.com/2025/02/27/world/europe/trump-eu-allies.html

Famà, R. (2025, April 3). Op-Ed: Financing a European Defence: what Role for the EU Budget?. *EU Law Live.* https://eulawlive.com/op-ed-financing-a-european-defence-what-role-for-the-eu-budget/

Graf Von Kielmansegg, S. (2017). Gemeinsame Verteidigung und Verteidigungspolitik. In S. Kadelbach (ed.), *Die Welt und Wir-Die Außenbeziehungen der Europäischen Union.* ed. Nomos, Baden-Baden, 268ss.

Guardian. (2025, March 7). Trump casts doubt on willingness to defend Nato allies "if they don't pay". *The Guardian*. https://www.theguardian.com/us-news/2025/mar/07/donald-trump-nato-alliance-us-security-support

Guttenberg, L., Redeker, N. (2025, February 21). How to defend Europe without risking another euro crisis. *Hertie School Jacques Delors Centre Policy Brief.* https://www.delorscentre.eu/en/publications/detail/publication/how-to-defend-europe-without-risking-another-euro-crisis.

Hampton, E. (2025). A European industrial policy for defense in times of war emergency. *Juris Gradibus, 1,* 52-86.

Kaniok, P. (2025). The NGEU comes to Visegrád: implementation process and throughput legitimacy. *European Politics and Society, 26*(1), 26ss.

Kellerbauer, M., Klamert, M., Tomkin, J. (2024). *Commentary on the European Union treaties and the Charter of fundamental rights.* Oxford University Press, Oxford.

Markakis, M. (2025, March 18). Defence spending and the future of EU finances: The ReArm Europe Plan. *Montesquieu Instituut*. https://www.montesquieu-instituut.nl/id/vmlsfw9rz4z8/nieuws/defence_spending_and_the_future_of_eu?colctx=vllzft76lfmu

Meershoek, N. (2021). The Constraints of Power Structures on EU Integration and Regulation of Military Procurement. *European Parliament,* 832ss.

Meletidis, P. (2024). Trying to redefine defense policy in the European Union after the crisis in Ukraine. *Yearbook of European Union and Comparative Law-YECUL, 2,* 281-322.

Oraheimo, H., Paasikallio, K. (2023). Reforming the Stability and Growth Pact: Debt Reduction versus Sustainable and Inclusive Growth. *Common Market Law Review, 61*(6), 1550ss.

Panascì, M.A. (2024). Unravelling Next Generation EU as a Transformative Moment: From Market Integration to Redistribution. *Common Market Law Review, 61*(1), 14ss.

Vecchio, A. (2025, March 28). The White Paper Within the Institutional Constraints. The EU Short-Term Defence Policy "Readiness 2030": *Verfassungsblog.* https://verfassungsblog.de/the-white-paper-readines-2030/.

Weber, R. (2024). Die Neuordnung der EU-Wirtschaftsverfassung durch Art. 122 AEUV. *Archiv des öffentlichen Recht, 149,* 82ss.

Wolff, J., Steinbach, A., Zettelmeyer, J. (2025, April). The governance and funding of

European rearmament. *Bruegel Policy Brief*, no. 15/25. https://www.bruegel.org/sites/default/files/2025-04/PB%2015%20202.pdf.

Author Profile

Dimitris Liakopoulos is a Professor of International Law, European Union Law, and International and European Criminal and Procedural Law, teaching at various universities across the United States and Europe. He serves as Director of the CEIJ (Center for European and International Justice) in New York and is also an Attorney at Law (of counsel).