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2018/0254 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing the European Defence Fund**

(Text with EEA relevance)

{SEC(2018) 314 final} - {SWD(2018) 345 final}

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

#### **• Reasons and objectives**

The EU's geopolitical context has changed dramatically in the last decade. The situation in its neighbouring regions is unstable and it faces a complex and challenging environment in which new threats, such as hybrid and cyber-attacks, are emerging, and more conventional challenges are returning.

EU citizens and their political leaders agree that the EU should collectively take more responsibility for its security. In the joint declaration of 25 March 2017 in Rome, leaders of 27 Member States and the European Council, the European Parliament and the European Commission stated the Union will strengthen its common security and defence and foster a more competitive and integrated defence industry.

European defence faces significant market inefficiencies linked to untapped economies of scale (fragmentation of national markets with a single buyer) and duplication of resources at national level. The demand comes almost exclusively from Member States, but their defence budgets, in particular for research and development (R&D), have seen important budget cuts in the past 10 years. Although there are recent positive indications as regards stabilisation and increases of national defence funding, significant further efforts are needed to maximise the efficiency of these investments. At the same time, the costs of defence equipment and in particular R&D have increased, while cooperation between Member States in R&D and defence equipment investments has remained limited. In 2015, only 16% of defence equipment was procured through European collaborative procurement, far away from the collective benchmark of 35% agreed in the framework of the European Defence Agency (EDA). The estimated share of European collaboration in the earlier stage of defence research was of only 7.2% against a benchmark of 20%.

These trends are reflected in the difficulties that the sector faces, which are substantial as regards defence research and defence development projects. The development of prototypes is particular costly and there is an important risk of failure. Also bridging the 'valley of death' between research and development entails significant technical and financial risks that individual Member States may not wish to bear on their own.

The sector is largely fragmented across national borders, with substantial duplications and resulting inefficiencies in terms of failure to capture economies of scale and learning. Despite the combination of increasing costs and stagnating or shrinking defence budgets, planning, R&D spending and the procurement and maintenance of equipment have remained largely matters for individual Member States, with very limited cooperation between them. The existing situation is not sustainable and the development of a major next generation defence system is increasingly beyond the reach of individual Member States.

This lack of cooperation between Member States further weakens the ability of the EU defence industry to sustain the industrial and technological capabilities necessary to preserve the EU's strategic autonomy and meet its current and future security needs. In response, the Commission has taken a number of initiatives in support of greater defence cooperation.

On 7 June 2017, in line with President's Juncker's 2016 state of the Union' speech, the Commission adopted a Communication launching the European Defence Fund<sup>1</sup> consisting of 'windows' for research and for capability. The Communication was accompanied by a legislative proposal for a Regulation establishing the European Defence Industrial Development Programme under the capability window.

A two-step approach was proposed, involving:

- an initial test period under the 2014-2020 multi-annual financial framework during which a Preparatory Action on Defence Research supports collaborative defence research, while the proposed European Defence Industrial Development Programme will co-finance collaborative development projects, and
- a dedicated fund under the 2021-2027 multi-annual financial framework scaling up the funding for collaborative research in innovative defence products and technologies and for subsequent stages of the development cycle, including the development of prototypes.

The present proposal is for the setting up the European Defence Fund under the 2021-2027 multi-annual financial framework.

The European Defence Fund is intended as an instrument to foster the competitiveness and innovativeness of the European defence technological and industrial base thereby contributing to the EU's strategic autonomy. It aims to trigger cooperative programmes that would not happen without an EU contribution and, by supporting research and development activities, to provide the necessary incentives to boost cooperation at each stage of the industrial cycle.

Collaborative projects with significant cross-border participation by small and medium-sized enterprises will be particularly encouraged. This will ensure that the Fund remains open to recipients from all Member States, regardless of their size and location in the Union.

This proposal provides for a date of application as of 1 January 2021 and is presented for a Union of 27 Member States, in line with the notification by the United Kingdom of its intention to withdraw from the European Union and Euratom based on Article 50 of the Treaty on European Union received by the European Council on 29 March 2017.

- **Consistency with other Union policies**

While defence research falls under the scope of the Research and Innovation Framework Programme ('Horizon Europe'), the corresponding specific provisions for defence research

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<sup>1</sup> COM (2017) 295 final of 7.6.2017.

such as objectives, rules for participation, delivery mechanisms are specified in the present proposal for a Regulation establishing the European Defence Fund.

In order to ensure coherence and complementarity in the promotion of the defence interests of the Union under the next multi-annual financial framework, the Commission will seek to ensure synergies with other EU initiatives in the field of civil R&D, such as security and cyber security, border control, coast guard, maritime transport and space.

In particular synergies should be sought with:

- the specific programme implementing Horizon Europe with a focus on civil applications so that results from defence R&D will benefit civil R&D and vice-versa;
- the Union space programme, in particular its components Governmental Satellite Communication (GOVSATCOM), Space Surveillance and Tracking Support (SST) and Copernicus. This may be done notably by ensuring technical compatibility where the projects make use of global navigation satellites system (GNSS) and GOVSATCOM capabilities. This may also be done by developing upgraded sensors, exchange platforms for classified data, applications based on data or information and services that are provided by the space programme's components;
- EU initiatives in the field of cybersecurity, such as those announced in the Joint Communication on cybersecurity<sup>2</sup>. In particular, the cyber security competence centre to be set up should seek synergies between the civilian and defence dimensions of cybersecurity. It could actively support Member States and other relevant actors by providing advice, sharing expertise and facilitating collaboration with regard to projects and actions as well as, when requested by Member States, acting as a project manager in relation to actions under the European Defence Fund;
- the actions identified under the coordinated civil military maritime security research agenda and with maritime transport; and
- other relevant EU programmes in the field of security, such as the Internal Security Fund and the Integrated Border Management Fund.

The implementation of the European Defence Fund will take place in close coordination with activities of the Commission and the High Representative for Foreign Affairs and Security Policy in the area of defence, including the Financial Toolbox, which aims to further facilitate joint development and acquisition of defence capabilities. In particular, the toolbox's financing models for capability acquisition will serve as a voluntary reference for Member

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<sup>2</sup> JOIN (2017) 0450 final of 13.9.2017.

States wishing to procure jointly products and technology developed with the support of the European Defence Fund.

There will be close links between the Fund and projects implemented in the framework of permanent structured cooperation in defence (PESCO). Once assessed as eligible, a 'PESCO bonus', in the form of a higher funding rate, will be granted to eligible PESCO projects. The Commission should be invited to be involved in the proceedings of the projects in order to be consulted, so that it can help assess the possible eligibility of such projects under the Fund.

The Fund will take account of the EU capability development plan (CDP) identifying the defence capability priorities, and the EU coordinated annual review on defence (CARD), which *inter alia* monitors the implementation of the priorities and identifies new opportunities for cooperation. In this context, account may also be taken of relevant activities carried out by the North Atlantic Treaty Organisation (NATO) and other partners where they serve the Union's security and defence interests and do not exclude any Member State from participating.

The Fund also takes into account defence activities implemented through the European Peace Facility, an off-budget instrument proposed outside the multi-annual financial framework.

The combination of project-oriented support in the form of European Defence Fund funding and well-designed and targeted financing in the defence sector can make a powerful contribution to strengthening the resilience of the sector and addressing its vulnerabilities, in particular benefitting innovative SMEs and midcaps. Budgetary guarantees can be a fiscally efficient way to address risks in the supply chain of sub-contractors involved in projects funded by the Fund. The defence sector has been proposed as an eligible sector for support through budgetary guarantees under the InvestEU Fund, which forms a cross-sectoral and over-arching framework supporting investment in various policy fields, underpinned by EU budgetary guarantees. The present proposal provides for the possibility of blending support under the Fund with financing backed by Invest EU.

The Fund's actions should be used to address market failures or sub-optimal investment situations, in a proportionate manner, without duplicating or crowding out private financing and have a clear European added value. This will ensure consistency between the actions of the Fund and EU State aid rules, avoiding undue distortions of competition in the internal market.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

### **• Legal basis**

The European Defence Fund aims at fostering the competitiveness and innovativeness of the Union's defence technological and industrial base by supporting defence-oriented R&D activities. It is based on the Treaty on the Functioning of the European Union (TFEU) Titles 'Industry' and 'Research and technological development and space' (Articles 173, 182, 183 and 188).

Article 173 of the TFEU constitutes the legal base for actions aimed at, inter alia, encouraging an environment favourable to the development of undertakings throughout the Union, particularly SMEs, favourable to cooperation between undertakings and fostering better exploitation of the industrial potential of policies of innovation, research and technological development.

As the European Defence Fund aims at fostering the competitiveness and innovativeness of the EU's defence technological and industrial base by supporting defence-oriented R&D activities, its aim and its content justify the choice of 173 TFEU as legal basis. Defence-oriented research actions also form an integral part of the European Defence Fund. Their aim and content also justify Article 182 TFEU as an additional legal basis.

Pursuant to the TFEU all research activities shall be covered by a multiannual framework research programme. The basic act of the multiannual research and innovation framework programme post-2020 Horizon Europe contains the necessary provisions setting out the links between the specific programmes established by it on defence research and on implementing Horizon Europe (which has a focus on civil research and innovation activities).

The detailed provisions for Union funding to defence research projects and its budget allocation are fixed in the present draft Regulation on the European Defence Fund, which also defines the rules of participation for defence research. Research and innovation activities carried out under the European Defence Fund have an exclusive focus on defence applications.

- **Subsidiarity (for non-exclusive competence)**

In today's world, guaranteeing security means dealing with threats that transcend borders. No single country can address these alone. The Union will need to take greater responsibility for protecting its interests, values and the European way of life, in complementarity and in cooperation with NATO.

Efforts to meet the Union's level of ambition in security and defence (as endorsed by the European Council in 2016) will contribute to this objective. To be ready to face tomorrow's threats and to protect its citizens, the Union needs to enhance its strategic autonomy. This requires the development of key technologies in critical areas and strategic capabilities to ensure technological leadership. Greater cooperation at all levels is the only way to meet Union citizens' expectations.

By encouraging cooperation, the Union can help maximise the output and quality of Member States' investment in defence. The European Defence Fund will bring EU added value by incentivising joint research on and development of products and technologies in the area of defence to increase the efficiency of public expenditure and thus contribute to the Union's operational autonomy.

Decisions on defence investments and defence development programmes remain the prerogative and the responsibility of Member States. The Union cannot and should not make up for the low levels of defence investments of Member States. However, it can complement,

leverage and consolidate their collaborative efforts in developing defence capabilities to support the European defence industry and respond to security challenges. This would avoid duplication, allow for a more efficient use of taxpayers' money, improve the interoperability of defence equipment, minimise fragmentation and boost competitiveness and innovation in the European defence technological industrial base.

- **Proportionality**

The proposed policy approach is proportionate to the scale and gravity of the problems that have been identified, i.e. lack of cross-border cooperation, and the need to support the competitiveness of European industry and collaborative defence R&D. It respects the limits of possible Union intervention under the Treaties.

The initiative is limited to goals that Member States cannot achieve satisfactorily on their own and where the Union can be expected to do better. The proposed delivery mechanism implemented at European level will be aimed at limiting financial and administrative costs.

- **Choice of the instrument**

The Commission proposes a Regulation of the European Parliament and of the Council in order to set up the Fund. This is the most suitable legal instrument as only a Regulation, with its directly applicable legal provisions, can provide the necessary degree of uniformity needed for the establishment and operation of an Union funding programme aiming at supporting an industrial sector across Europe.

### **3. RESULTS OF RETROSPECTIVE EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Retrospective evaluations/fitness checks of existing legislation**

The programmes established under the current multi-annual financial framework have been in place for a limited time and therefore do not offer important opportunities to learn and take the experience into account in the preparation of this programme.

The preparatory action on defence research was launched in April 2017 with a total budget of EUR 90 million over three years. It has started to bring first concrete results, with the first grant agreements signed in 2018, but all projects are still ongoing.

The applicants to the 2017 calls cover a wide geographical area: entities of 25 EU Member States and Norway applied, including a large number of unique applicants: 187 in total. The projects selected for funding include participants from 17 EU Member States. In terms of type of applicants, the proposals include private sector, both large and small industry, SMEs, public bodies and research centres and universities. SME participation is at 30% in the proposals without the Preparatory Action on Defence Research imposing strict rules on SMEs participation. This SME participation rate has been retained in the projects selected for funding with 32% participation of SMEs with a budget value of 14%. This data shows that the calls of the first year of the preparatory action on defence research had a good response and attracted strong interest from the sector. From this good response rate, the preliminary conclusion can be drawn that relevant defence topics have been addressed and generated the interest from the sector.

The proposed European Defence Industrial Development Programme Regulation for 2019-2020 will have a budget of EUR 500 million. The co-legislators reached a compromise agreement on 22 May 2018. The European Defence Industrial Development Programme should be operational from 1 January 2019.

The compromise agreement found has shown the political will of the co-legislators to rapidly agree on the budget, set-up and implementing modalities of a programme for co-financing of the development of defence products and technologies.

The present legislative initiative involves scaling up of these two existing initiatives under the 2014-2020 multi-annual financial framework. On the basis of the experience with Preparatory Action on defence research and the European Defence Industrial Development Programme and an assessment of the extent to which the set-up of the two programmes are aligned, a single integrated Fund is proposed. This will allow for streamlining and simplification.

- **Stakeholder consultations**

To give all stakeholders the chance to comment, the Commission carried out an open public consultation (OPC) on the European Defence Fund from 13 January to 9 March 2018, as part of a wider consultation exercise on all policy areas covered by the EU budget for 2021-2027. Several position papers have been submitted through the OPC web portal.

Various stakeholder groups were reached, including those directly affected by the Fund, such as industry and research institutions, and those that have an opinion on the subject, but are not direct recipients, such as citizens and Non-governmental Organisations (NGOs). Some of the latter criticised the initiative from an ethical perspective. Whilst their concerns have been taken, as appropriate, on board in the proposal (e.g. as regards ethics, the need to comply with international conventions), the Commission is exercising its right of initiative to answer EU citizens' and their political leaders' call for supporting the EU defence industry and for greater security.

The directly affected stakeholders support the initiative. They commented on the topics to be financed and made suggestions as to the structure of the Fund and funding arrangements. The main points were as follows:

- **the focus should be on long/mid-term research and development priorities** (technology push and disruptive innovation) with a view to the long-term competitiveness of the sector and providing breakthrough capabilities. The priorities of the Fund should be determined with Member States in the context of annual/multiannual work programmes;
- **the structure of the Fund should reflect** a holistic capability-driven approach covering the whole technology cycle and on the basis of a single Regulation. The detailed arrangements of the two windows should be aligned as much as possible;
- stakeholders unanimously consider that rules on **Intellectual Property Rights (IPR)** need to be adapted for defence. Research organisations called for the protection of the rights of all project participants, not only those of big industry;
- on funding rates, stakeholders shared the view that funding rates need to take into account the specifics of the sector. Research institutions argued for higher financial contributions for research up to 100% and to cover indirect costs related to

infrastructures. The report from a Group of Personalities on the Preparatory Action on Defence Research (Group of Personalities Report)<sup>3</sup> advised that a higher percentage of indirect costs should be covered;

- **as regards forms of financial support**, respondents suggested considering options for co-funding by Member States, e.g. through pre-commercial procurement and blending operations managed through InvestEU in cases with civil spin-offs or relating to testing facilities.
- **External expertise**

The Commissioner for the internal market, industry, entrepreneurship and SMEs convened a group of 16 high-level persons active in the area of defence (from industry, research organisations, the European and national parliaments, and policy-focused institutes) to provide external advice in the short and longer terms of defence research policy. Following regular conversations and consultations the group published a report on *European Defence Research - the case for an EU-funded R&T programme*<sup>4</sup> in January 2016.

The Group helped to shape the Preparatory Action on Defence Research launched in April 2017 and provided strategic advice on the longer term aspirations for Union-funded defence-related research.

- **Impact assessment**

In line with the Commission's better regulation practices, this proposal is supported by an impact assessment. The independent Regulatory Scrutiny Board scrutinised the impact assessment report on 11 April 2018 and issued a positive opinion. The board recommended clarifying the legal base of the initiative and potential overlaps with research funded in the other Horizon Europe specific programme, to adjust the narrative on delivery mechanisms to allow for a more selective approach, and to better justify the proposed direct management mode for the Fund. The impact assessment report has been amended accordingly, in line with the board's recommendations. Section 3.2.1 of the Impact Assessment has been fully updated in line with the first recommendation. The wording of Section 2.4 has been improved and now clearly explains the delineation between the European Defence Fund and the specific Programme implementing Horizon Europe with regard to civil applications. To better explain the delineation and strengths and weaknesses of the different options, the wording across Section 4.1 has been adjusted and also the assessment of the Options in Section 4.2, which now includes the possibility to implement, on a case-by-case basis and where appropriate, some measures inspired by the logic of Option 3. Finally, specific wording to justify the direct management mode is included in Section 4.1.1.

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<sup>3</sup> [https://www.iss.europa.eu/sites/default/files/EUISSFiles/GoP\\_report.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/GoP_report.pdf)

<sup>4</sup> [https://www.iss.europa.eu/sites/default/files/EUISSFiles/GoP\\_report.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/GoP_report.pdf)

The impact assessment report explains the problems and underlying problem drivers that led the Commission to propose the initiative. These relate to cuts in national defence budgets and uncoordinated spending, leading to inefficiencies and reducing the availability of defence equipment to critical levels. The report also found that the lack of innovation in defence was problematic and that the declining levels of cooperation in defence R&D and equipment investments hamper the Union's ability to develop new defence technologies and systems. The fragmented demand is reflected in inefficient organisation on the supply side, including significant duplications, small scales of production and industrial supply chains built mainly on a national basis. All of this has restricted the interoperability of defence equipment and led to missed economies of scale.

According to the report, the Fund will help to redress the situation by channelling EUR 13 billion into collaborative defence-oriented research and capability development making the Union one of the largest investors in defence research in the EU and functioning as a catalyst by redirecting individual spending to EU cooperative development projects with common technical requirements addressing EU priorities.

The report assessed three options as regards the structure of the Fund and delivery mechanisms that would make it possible to address the problems in the most optimal manner:

- option 1 – to maintain the two current separate testing programmes under the 2014-2020 multi-annual financial framework but spending levels increased more than six-fold;
- option 2 – to introduce additional flexibility and simplification measures. A single Fund would allow for integrated planning for both research and development with harmonised participation rules. Option 2 takes account of the concern of stakeholders that funding levels for indirect costs are too low in the methodology applied in the Baseline scenario. The specific characteristics of the sector, including the dependence on a single buyer and the important limitations to commercially exploit the results from defence-oriented R&D, should be acknowledged. Under Option 2, flexibility will be introduced allowing to better cover indirect costs. Also, simplification measures would be introduced, such as grants in the form of lump sums; and
- option 3 – to introduce more stringent requirements, i.e. replace an approach based on incentives and bonuses with a more prescriptive approach aimed at addressing the identified problems in a more intrusive way in order to achieve results faster. Such a prescriptive approach also entails significant risks, especially as regards uptake, which may limit the capacity of the Fund to achieve its objectives.

After comparing the options, the report recommends option 2 as it maximises synergies and introduces simplification, and the incentive-based approach is less risky than the prescriptive approach in option 3. Option 2 would be the best way of ensuring that the Fund:

- promotes the integration and strengthening of the global competitiveness of the European defence technological and industrial base;
- supports the development of defence products and technologies in the Union by acting as a catalyst for R&D cooperation programmes in key defence technology

areas; this should lead to follow-on collaborative defence investment programmes addressing Member States' future capability needs and strengthening the development of future capabilities through increased cooperation; and

- delivers EU added value, given its ability (without substituting national efforts) to coordinate a wide range of stakeholders from defence ministries (as exclusive customers) to defence industries (as sole providers of defence products) in order to achieve outputs to the benefit of all.
- **Simplification and flexibility**

**Integrated approach:** a European Defence Fund covering both research and development activities allows for an integrated, mutually reinforcing support, avoiding the risk of research results being lost in the absence of continued support for the further development and testing of the technology. This will strengthen the uptake of products and technologies that are supported through Union funding. In addition, an integrated, more flexible fund will allow for additional forms of support where relevant, including through pre-commercial procurement. This will make it possible to identify the market solutions that offer the best value for money to address Union's defence research and development needs.

**Taking account of the specific nature of R&D in the defence sector:** the design and the structure of the European Defence Fund are informed by experience with the Preparatory Action on Defence Research and the proposal for an European Defence Industrial Development Programme Regulation, the Stakeholder feedback and the impact assessment findings and in particular on the specific characteristics of the sector where Member States and associated countries normally fully fund all R&D cost given the restrictions to exploit R&D results. The Defence Fund allows the necessary flexibility to better cover indirect costs, whilst at the same time measures are put in place to safeguard that no overcompensation takes place.

Actions of the Fund implemented during development phase are strongly interlinked with Member States' planning and acquisition strategies and processes, including their financial contributions to multinational armament projects. Therefore, it is important that Member States are involved in award decisions for development actions according to comitology rules.

The funding rates for the development of prototypes and actions in the subsequent stages of development will be lower than those for other actions prior to the prototype phase. This will allow for appropriate incentives to support the launch of collaborative prototype development projects while taking into account the important role of Member States' funding in this area.

The rules for participation in the European Defence Fund will take into account the specific nature of the defence sector, in particular as regards the strict need for security of information and the management of results of the actions, etc.

Particular attention will be paid to ensuring appropriate participation by small businesses, through increased funding rates to encourage cross-border participation of small and medium-sized enterprises in collaborative projects.

**Extensive use of output-based tools (single lump sums and flat rates for grants)** will avoid *ex-post* accounting controls on eligible costs and possible control complexity (security clearance). In particular, where the Union is topping-up a minor part of a provisional budget already endorsed by Member States (support for the development of prototypes), the Union grant will take the form of a single lump sum paid on deliverables accepted by Member States. As a rule, the Union contribution must be paid in respect of deliverables. This will ease the management of the Fund, reduce the management costs and limit the error rate.

The Commission will implement the European Defence Fund in direct management so as to maximise effectiveness and efficiency of the delivery. Member States will be closely involved in the implementation of the European Defence Fund.

- **Fundamental rights**

Enhancing the security of EU citizens safeguards their fundamental rights.

Funded activities will comply with the Union's commitments under international agreements and all applications for funding will be screened by ethical experts.

#### **4. BUDGETARY IMPLICATIONS**

The proposed budget allocation for 2021-2027 is EUR 13 000 000 000 (in current prices), of which:

- EUR 4 100 000 000 for research actions;
- EUR 8 900 000 000 for development actions.

The impact on the multi-annual financial framework period in terms of required budget and human resources is detailed in the legislative financial statement annexed to the proposal.

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The legislative financial statement sets out the resources required in the Commission's departments for the implementation of the Fund. Subject to confirmation of cost efficiency through a cost-benefit analysis, the Fund may be managed by an Executive Agency of the Commission.

A monitoring scheme is proposed to support performance reporting and evaluation. Results will become available progressively. Monitoring information will relate to:

- input indicators (e.g. number and types of projects) in the early years;
- output indicators half way through the programming period information (and depending of the length of the projects);

- results indicators (e.g. subsequent procurement by Member States, and patents) in the later years of the Fund.

Evaluations will be carried out in line with paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016<sup>5</sup>, where the three institutions confirmed that evaluations of existing legislation and policy should provide the basis for impact assessments of options for further action. The evaluations will assess the programme's effects on the ground based on the programme indicators/targets and a detailed analysis of the degree to which the programme can be deemed relevant, effective, efficient, provides enough EU added value and is coherent with other EU policies. They will include lessons learnt to identify any lacks/problems or any potential to further improve the actions or their results and to help maximise their exploitation/impact.

Once sufficient information is available and at the latest four years after the start of the implementation, an interim evaluation of the Fund will be carried out on the implementation of the Fund, in parallel with the *ex-post* Preparatory Action on Defence Research and the European Defence Industrial Development Programme evaluations.

The Commission will carry out a final evaluation at the end of the implementation period when most projects have been finalised.

### **Climate mainstreaming**

The Commission proposal for the 2021-2027 multi-annual financial framework set a more ambitious goal for climate mainstreaming across all EU programmes, with an overall target of 25% of EU expenditure contributing to climate objectives. The contribution of this Fund to the achievement of this overall target will be tracked through an EU climate marker system at an appropriate level of disaggregation, including the use of more precise methodologies where these are available. The Commission will continue to present the information annually in terms of commitment appropriations in the context of the annual draft budget.

To support the full utilisation of the potential of the European Defence Fund to contribute to climate objectives, the Commission will seek to identify relevant actions throughout the Fund preparation, implementation, review and evaluation processes.

- **Date of application**

This proposal provides for a date of application as of 1 January 2021.

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<sup>5</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing the European Defence Fund**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 173(3), Article 182(4), Article 183 and the second paragraph of Article 188 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) In the European Defence Action Plan, adopted on 30 November 2016, the Commission committed to complement, leverage and consolidate collaborative efforts by Member States in developing defence technological and industrial capabilities to respond to security challenges, as well as to foster a competitive, innovative and efficient European defence industry. It proposed in particular to launch a European Defence Fund (the 'Fund') to support investments in joint research and the joint development of defence products and technologies, thus fostering synergies and cost-effectiveness, and to promote the Member States' joint purchase and maintenance of defence equipment. This Fund would complement national funding already used for this purpose and should act as an incentive for Member States to cooperate and invest more in defence. The Fund would support cooperation during the whole cycle of defence products and technologies.
- (2) The Fund would contribute to the establishment of a strong, competitive and innovative defence industrial and technological base and go hand in hand with the Union's initiatives towards a more integrated European Defence Market and in particular, the two Directives<sup>6</sup> on procurement and on EU transfers in the defence sector adopted in 2009.

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<sup>6</sup> Directive 2009/43/EC of the European Parliament and of the Council, simplifying terms and conditions of transfers of defence-related products within the Community, OJ L 146, 10.6.2009, p. 1; Directive 2009/81/EC of the European Parliament and of the Council on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, OJ L 216, 20.8.2009, p. 76.

- (3) Following an integrated approach and in order to contribute to the enhancement of the competitiveness and innovation capacity of the Union's defence industry, a European Defence Fund should be established. The Fund should aim at enhancing the competitiveness, innovation, efficiency and autonomy of the Union's defence industry thereby contributing to the Union's strategic autonomy by supporting the cross border cooperation between Member States and between enterprises, research centres, national administrations, international organisations and universities, in the research phase and in the development phase of defence products and technologies. To achieve more innovative solutions and an open internal market, the Fund should support the cross-border participation of defence small and medium sized enterprises (SMEs) and middle capitalisation companies (mid-caps).
- (4) The research phase is a crucial element as it conditions the capacity of the European industry and the autonomy of the European industry to develop products and the independence of Member States as defence end-users. The research phase linked to the development of defence capabilities may include significant risks, in particular related to the low level of maturity and the disruption of technologies. The development phase, which follows the research and technology phase, also entails significant risks and costs that hamper the further exploitation of the results of research and adversely impact the competitiveness and innovation of the Union's defence industry.
- (5) The Fund should not support pure basic research which should instead be supported through other schemes but may include defence oriented basic research likely to form the basis of the solution to recognised or expected problems or possibilities.
- (6) The Fund could support actions pertaining to both new and the upgrade of existing products and technologies, wherever the use of pre-existing information needed to perform the action for the upgrade is not subject to restriction by non-associated third countries or non-associated third country entities. When applying for the Union funding, legal entities should be required to provide the relevant information to establish the absence of restrictions. In the absence of such information, the Union funding should not be possible.
- (7) In order to ensure that the Union's and its Member States' international obligations are respected in the implementation of this Regulation, actions relating to products or technologies the use, development or production of which are prohibited by international law should not receive funding under the Fund. In this respect, the eligibility of actions related to new defence products or technologies, such as those that are specifically designed to carry out lethal strikes without any human control over the engagement decisions, should also be subject to developments in international law.
- (8) The difficulty to agree on consolidated defence capability requirements and common technical specifications or standards hampers cross-border collaboration between Member States and between legal entities based in different Member States. The absence of such requirements, specifications and standards has led to increased fragmentation of the defence sector, technical complexity, delays and inflated costs as well as decreased interoperability. The agreement on common technical specifications should be a prerequisite for actions involving a higher level of technological readiness. Activities of Member States leading to common defence capability requirements and supporting studies as well as actions aiming at supporting the creation of a common definition of technical specifications or standards should also be eligible for support by the Fund.
- (9) As the objective of the Fund is to support the competitiveness and innovation of the Union defence industry by leveraging and complementing collaborative defence research and technology activities and de-risking the development phase of cooperative projects, actions related to the research and development of a defence product or technology should be eligible

to benefit from it. This will also apply to the upgrade, including the interoperability thereof, of existing defence products and technologies.

- (10) Given that the Fund aims particularly at enhancing cooperation between legal entities and Member States across Europe, an action should be eligible for funding only if it is undertaken by a cooperation of at least three legal entities based in at least three different Member States and/or associated countries. At least three of these legal eligible entities established in at least two different Member States and/or associated countries should not be effectively controlled, directly or indirectly, by the same entity or should not control each other. In order to boost the cooperation between Member States the Fund may support joint pre-commercial procurement .
- (11) Pursuant to [reference to be updated as appropriate according to a new decision on OCTs: Article 94 of Council Decision 2013/755/EU<sup>7</sup>], entities established in overseas countries and Territories (OCTs) are to be eligible for funding subject to the rules and objectives of the Fund and possible arrangements applicable to the Member State to which the OCTs is linked.
- (12) As the Fund aims at enhancing the competitiveness, efficiency and autonomy of the Union's defence industry, only entities established in the Union or associated countries and not subject to control by non-associated third countries or non-associated third country entities should in principle be eligible for support. Additionally, in order to ensure the protection of essential security and defence interests of the Union and its Member States, the infrastructure, facilities, assets and resources used by the recipients and their subcontractors in actions supported by the Fund should not be located on the territory of non-associated third countries.
- (13) In certain circumstances, if this is necessary for achieving the objectives of the action, it should be possible to derogate from the principle that recipients and their subcontractors should not be subject to control by non-associated third countries or non-associated third country entities. In that perspective, legal entities established in the Union that are controlled by a non-associated third country or a non-associated third country entity can be eligible if relevant and strict conditions relating to the security and defence interests of the Union and its Member States are fulfilled. The participation of such entities should not contravene the objectives of the Fund. Applicants should provide all relevant information about the infrastructure, facilities, assets and resources to be used in the action.
- (14) If a consortium wishes to participate in an eligible action and the financial assistance of the Union is to take the form of a grant, the consortium should appoint one of its members as a coordinator who will be the principal point of contact.
- (15) In case a development action supported by the Fund is managed by a project manager appointed by Member States or associated countries, the Commission should inform the project manager prior to executing the payment to the recipient so that the project manager can ensure that the time-frames are respected by the recipients. Under certain circumstances, the project manager could provide the Commission with its observations on the progress of the action so that the Commission can validate whether the conditions to proceed to the payment are fulfilled.

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<sup>7</sup> Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union (Overseas Association Decision) (OJ L 344, 19.12.2013, p. 1).

- (16) In order to ensure that the funded actions are financially viable, it is necessary that the beneficiaries demonstrate that the costs of the action not covered by the Union's funding are covered by other means of financing.
- (17) Different types of financial arrangement should be at the disposal to Member States for the joint development and acquisition of defence capabilities. The Financial Toolbox developed by the Commission should provide different types of arrangements that Member States can use to address challenges for collaborative development and procurement from a financing perspective. The use of such financial arrangements could further foster the launch of collaborative defence projects and increase the efficiency of defence spending, including for projects supported under the European Defence Fund.
- (18) Given the specificities of the defence industry where demand comes almost exclusively from Member States and associated countries, which also control all acquisition of defence-related products and technologies, including exports, the functioning of the defence sector is unique and does not follow the conventional rules and business models that govern more traditional markets. Industry therefore cannot undertake substantial self-funded defence Research and Development (R&D) projects and Member States and associated countries normally fully fund all R&D cost. To achieve the objectives of the Fund, notably to incentivise cooperation between companies from different Member States and associated countries, and taking into account the specifics of the defence sector, up to totality of the eligible costs should be covered for actions that take place ahead of the development of prototypes phase.
- (19) The prototype phase is a crucial phase where Member States or associated countries usually decide on their consolidated investment and start the acquisition process of their future defence products or technologies. This is the reason why, at this specific stage, Member States and associated countries agree on the necessary commitments including cost-sharing and ownership of the project. To ensure the credibility of their commitment, the financial assistance of the Union under the Fund should normally not exceed 20 % of the eligible costs.
- (20) For actions beyond the prototype phase, funding up to 80% should be foreseen. These actions which are closer to product and technology finalisation may still involve substantial costs.
- (21) Stakeholders in the defence sector are facing specific indirect costs, such as costs for security. Furthermore, stakeholders are working in a specific market where they – without any demand on the buyers' side – cannot recover the research and development costs like in the civilian sector. Therefore, it is justified to allow a flat rate of 25 % as well as the possibility, on a project base, to charge indirect costs calculated in accordance with the usual accounting practises of beneficiaries if these practises are accepted by their national authorities under comparable national funding schemes, which have been communicated to the Commission. The authorising officer responsible should justify its decision to accept indirect eligible costs beyond the flat rate of 25 % in the work programme or in the call for proposals.
- (22) In order to ensure that the funded actions will contribute to the competitiveness and efficiency of the European defence industry, it is important that Member States already intend to jointly procure the final product or use the technology, notably through joint cross-border procurement, where Member States jointly organise their procurement procedures in particular with the use of a central purchasing body.
- (23) The promotion of innovation and technological development in the Union defence industry should take place in a manner coherent with the security and defence interests of the Union. Accordingly, the action's contribution to those interests and to the defence research and capability priorities commonly agreed by Member States should serve as an award criterion. Within the Union, common defence research and capability shortfalls are identified in the Common Security and Defence Policy (CSDP) framework notably through Overarching

Strategic Research Agenda and the Capability Development Plan. Other Union processes such as the Coordinated Annual Review on Defence and the Permanent Structured Cooperation will support the implementation of relevant priorities through identifying and taking forward opportunities for enhanced cooperation with a view to fulfilling the EU level of ambition on security and defence. Where appropriate, regional and international priorities, including those in the North Atlantic Treaty Organisation context, may also be taken into account if they are in line with Union priorities and do not prevent any Member State or an associated country from participating, while also taking into account that unnecessary duplication should be avoided.

- (24) Eligible actions developed in the context of Permanent Structured Cooperation (PESCO) in the institutional framework of the Union should ensure enhanced cooperation between legal entities in the different Member States on a continuous basis and thus directly contribute to the aims of the Fund. If selected, such projects should thus be eligible for an increased funding rate.
- (25) The Commission will take into account the other activities financed under the Horizon Europe Framework programme in order to avoid unnecessary duplication and ensure the cross-fertilisation between civil and defence research.
- (26) Cybersecurity and cyber defence are increasingly important challenges and the Commission and the High Representative recognised the need to establish synergies between cyber defence actions within the scope of the Fund and Union initiatives in the field of cybersecurity, such as those announced in the Joint Communication on cybersecurity. In particular, the European Cybersecurity Industrial, Technology and Research Competence Centre to be set up should seek synergies between the civilian and defence dimensions of cybersecurity. It could actively support Member States and other relevant actors by providing advice, sharing expertise and facilitating collaboration with regard to projects and actions as well as when requested by Member States acting as a project manager in relation to the European Defence Fund.
- (27) An integrated approach should be ensured by bringing together activities covered by the Preparatory Action on Defence Research launched by the Commission within the meaning of Article [58 (2) (b)] of Regulation (EU, Euratom) 2018/... of the European Parliament and of the Council (the ‘Financial Regulation’) and the European Defence Industrial Development Programme established by Regulation (EC) No ... of the European Parliament and of the Council and to harmonise the conditions for participation, to create a more coherent set of instruments, to increase the innovative, collaborative and economic impact, while avoiding unnecessary duplication and fragmentation. With this integrated approach, the Fund would also contribute to a better exploitation of the results of defence research, covering the gap between research and development taking into account the specificities of the defence sector, and promoting all forms of innovation, including disruptive innovation where possible failure should be accepted.
- (28) The policy objectives of this Fund will be also addressed through financial instruments and budgetary guarantees under the policy window(s) [...] of the InvestEU Fund.
- (29) Financial support should be used to address market failures or sub-optimal investment situations, in a proportionate manner and actions should not duplicate or crowd out private financing or distort competition in the internal market. Actions should have a clear European added value.
- (30) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the costs of controls, the administrative burden, and the expected risk of non-compliance. This should include consideration of the use

of lump sums, flat rates and unit costs, as well as financing not linked to costs as referred to in Article [125(1)] of the Financial Regulation.

- (31) The Commission should establish annual or multiannual work programmes in line with the objectives of the Fund. The Commission should be assisted in the establishment of the work programme by a committee of Member States. In order to benefit from its expertise in the defence sector, the European Defence Agency will be given the status of an observer in the committee. Given the specificities of the defence area, the European External Action Service should also assist in the committee of Member States.
- (32) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission as regards the adoption of the work programme and for awarding the funding to selected development actions.. In particular, while implementing development actions, the specificities of the defence sector, notably the responsibility of Member States and/or associated countries for the planning and acquisition process, should be taken into account. These implementing powers should be exercised in accordance with Regulation (EU) [No 182/2011 of the European Parliament and of the Council]<sup>8</sup>.
- (33) In order to support an open internal market, participation of cross-border SMEs and mid-caps, either as members of consortia or as subcontractors, should be encouraged.
- (34) The Commission should endeavour to maintain dialogue with Member States and industry to ensure the success of the Fund.
- (35) This Regulation lays down a financial envelope for the European Defence Fund which is to constitute the prime reference amount, within the meaning of [the new inter-institutional agreement] between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management<sup>9</sup>, for the European Parliament and the Council during the annual budgetary procedure.
- (36) The Financial Regulation applies to the Fund, unless otherwise specified. It lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, financial assistance, financial instruments and budgetary guarantees.
- (37) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective EU funding.

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<sup>8</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

<sup>9</sup> Reference to be updated: OJ C 373, 20.12.2013, p. 1. The agreement is available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C\\_.2013.373.01.0001.01.ENG&toc=OJ:C:2013:373:TOC](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2013.373.01.0001.01.ENG&toc=OJ:C:2013:373:TOC)

- (38) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>10</sup>, Council Regulation (Euratom, EC) No 2988/95<sup>11</sup>, Council Regulation (Euratom, EC) No 2185/96<sup>12</sup> and Council Regulation (EU) 2017/1939<sup>13</sup>, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96 the European Anti-Fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office (EPPO) may investigate and prosecute fraud and other criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>14</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, the EPPO and the European Court of Auditors (ECA) and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.
- (39) Third countries which are members of the European Economic Area (EEA) may participate in Union programmes in the framework of the cooperation established under the EEA agreement, which provides for the implementation of the programmes by a decision under that agreement. A specific provision should be introduced in this Regulation to grant the necessary rights for and access to the authorising officer responsible, the European Anti-Fraud Office (OLAF) as well as the European Court of Auditors to comprehensively exert their respective competences.
- (40) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016, there is a need to evaluate this regulation on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the regulation on the ground. The Commission should carry out an interim evaluation no later than four years after the start of the Fund implementation and a final evaluation at the end of the implementation period of the Fund, examining the financial activities in terms of financial implementation results and to the extent possible at that point in time, results and impact. This report should also analyse the

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<sup>10</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999, (OJ L248, 18.9.2013, p. 1).

<sup>11</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95, p.1):

<sup>12</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L292, 15.11.96, p.2)

<sup>13</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

<sup>14</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L198, 28.7.2017, p.29).

cross-border participation of SMEs and mid-caps in projects supported by the Fund as well as the participation of SMEs and mid-caps to the global value chain. The Commission may also propose amendments to this Regulation to react on possible developments during the implementation of the Fund.

- (41) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals, this Fund will contribute to mainstream climate action in the Union's policies and to the achievement of an overall target of 25 % of the EU budget expenditures supporting climate objectives. Relevant actions will be identified during the Fund's preparation and implementation, and reassessed in the context of its mid-term evaluation.
- (42) As the Fund supports only the research and development phases of defence products and technologies, in principle the Union should not have ownership or intellectual property rights (IPRs) over the products or technologies resulting from the funded actions unless the Union assistance is provided through procurement. However, for research actions, interested Member States and associated countries should have the possibility to use the results of funded actions and participate in follow-up cooperative development and therefore derogations to that principle should be allowed.
- (43) The Union financial support should not affect the transfer of defence-related products within the Union in accordance with Directive 2009/43/CE of the European Parliament and the Council<sup>15</sup>, nor the export of products, equipment or technologies.
- (44) Use of sensitive background information or access by unauthorised individuals to sensitive results generated by research projects may have an adverse impact on the interests of the Union or of one or more of the Member States. Thus handling of confidential data and classified information should be governed by all relevant Union law, including the Institutions' internal rules, such as Commission Decision (EU, Euratom) 2015/444<sup>16</sup>.
- (45) In order to be able to supplement or amend the impact pathway indicators, where considered necessary, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (46) The Commission should manage the Fund having due regard to the requirements of confidentiality and security, in particular classified information and sensitive information.

HAVE ADOPTED THIS REGULATION:

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<sup>15</sup> Directive 2009/43/EC of the European Parliament and the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community (OJ L 146, 10.6.2009, p. 1).

<sup>16</sup> Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53)

# TITLE I

## COMMON PROVISIONS

### APPLICABLE FOR RESEARCH AND DEVELOPMENT

#### CHAPTER I

##### GENERAL PROVISIONS

###### *Article 1* *Subject matter*

This Regulation establishes the European Defence Fund ('the Fund').

It lays down the objectives of the Fund, the budget for the period 2021-2027, the forms of Union funding and the rules for providing such funding.

###### *Article 2* *Definitions*

For the purposes of this Regulation, the following definitions apply:

- (1) **'blending operations'** means actions supported by the EU budget, including within blending facilities pursuant to Article [2(6)] of the Financial Regulation, combining non-repayable forms of support and/or financial instruments from the EU budget with repayable forms of support from development or other public finance institutions, as well as from commercial finance institutions and investors;
- (2) **'control'** means the ability to exercise a decisive influence on an legal entity directly or indirectly through one or more intermediate legal entities;
- (3) **'development action'** means any action consisting primarily of defence-oriented activities in the development phase, covering new products or technologies or the upgrading of existing ones, excluding the production or use of weapons;
- (4) **'disruptive technology for defence'** means a technology the application of which can radically change the concepts and conduct of defence affairs.;
- (5) **'executive management structures'** means any body or bodies, appointed in accordance with national law, which are empowered to set the legal entity's strategy, objectives and overall direction, and which oversee and monitor management decision-making;
- (6) **'legal entity'** means any natural or legal person created and recognised as such under national law, Union law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations, or an entity without a legal personality in accordance with Article [197(2)(c)] of the Financial Regulation;

- (7) **'mid-cap'** means an enterprise that is not a micro-, small - and medium size enterprises ('SME'), as defined in Commission recommendation 2003/361/EC<sup>17</sup> and that has a number of employees of up to 3 000 employees, where the staff headcount is calculated in accordance with Articles 3, 4, 5 and 6 of Title I of the Annex to that Recommendation;
- (8) **'pre-commercial procurement'** means the procurement of research and development services involving risk-benefit sharing under market conditions, competitive development in phases, where there is a clear separation of the research and development services procured from the deployment of commercial volumes of end-products;
- (9) **'project manager'** means any contracting authority established in a Member State or an associated country, set up by a Member State or an associated country or a group of Member States and/or associated countries to manage multinational armament projects permanently or on an ad-hoc basis;
- (10) **'recipient'** means any legal entity receiving funding under this Fund;
- (11) **'research action'** means any action consisting of research activities with an exclusive focus on defence applications;
- (12) **'results'** means any tangible or intangible effect of the action, such as data, know-how or information, whatever its form or nature, whether or not it can be protected, as well as any rights attached to it, including intellectual property rights;
- (13) **'special report'** means a specific deliverable of a research action summarising its results, providing extensive information on the basic principles, the aims, the actual outcomes, the basic properties, the performed tests, the potential benefits, the potential defence applications and the expected exploitation path of the research;
- (14) **'system prototype'** means a model of a product or technology that can demonstrate performance in an operational environment;
- (15) **'third country'** means a country that is not a member of the Union;
- (16) **'non-associated third country'** means a third country that is not an associated country in accordance with Article 5;
- (17) **'non-associated third country entity'** means a legal entity established in a non-associated third country or having its executive management structures in a non-associated third country.

*Article 3*  
*Objectives of the Fund*

1. The general objective of the Fund is to foster the competitiveness, efficiency and innovation capacity of the European defence industry, by supporting collaborative actions and cross-border cooperation between legal entities throughout the Union, including SMEs and mid-caps as well as fostering the better exploitation of the industrial potential of innovation, research and technological development, at each stage of the industrial life cycle, thus

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<sup>17</sup> Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

contributing to the Union strategic autonomy. The Fund should also contribute to the freedom of action of the Union and its autonomy, in particular in technological and industrial terms.

2. The Fund shall have the following specific objectives:
  - (a) support collaborative research projects that could significantly boost the performance of future capabilities, aiming at maximising innovation and introducing new defence products and technologies, including disruptive ones;
  - (b) support collaborative development projects of defence products and technologies consistent with defence capability priorities commonly agreed by Member States within the framework of the Common Foreign and Security Policy, thus contributing to greater efficiency of defence spending within the Union, achieving greater economies of scale, reducing the risk of unnecessary duplication and as such reducing the fragmentation of defence products and technologies throughout the Union. Ultimately, the Fund will lead to greater interoperability between Member States' capabilities.

#### *Article 4 Budget*

1. The financial envelope for the implementation of the European Defence Fund for the period 2021 – 2027 shall be EUR 13 000 000 000 in current prices.
2. The indicative distribution of the amount referred to in paragraph 1 shall be:
  - (a) up to EUR 4 100 000 000 for research actions;
  - (b) up to EUR 8 900 000 000 for development actions.
3. The amount referred to in paragraph 1 may be used for technical and administrative assistance for the implementation of the Fund, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems.
4. Up to 5 % of the financial envelope referred to in paragraph 1 shall be devoted to support disruptive technologies for defence.
5. Resources allocated to Member States under shared management may, at their request, be transferred to the Fund. The Commission shall implement those resources directly in accordance with Article [62(1)(a)] of the Financial Regulation. Where possible those resources shall be used for the benefit of the Member State concerned.

#### *Article 5 Associated countries*

The Fund shall be open to the European Free Trade Association (EFTA) members which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the EEA agreement.

#### *Article 6 Support to disruptive technologies for defence*

1. The Commission shall award funding through open and public consultations on the areas of intervention defined in the work programmes.
2. The Commission may, on a case by case basis, find the most appropriate form of funding to finance innovative solutions.

*Article 7*  
*Ethics*

1. Actions carried out under the Fund shall comply with ethical principles and relevant national, Union and international legislation.
2. Proposals shall be systematically screened to identify those actions raising complex or serious ethics issues and submit them to an ethics assessment. Ethics screenings and assessments shall be carried out by the Commission with the support of experts on defence ethics. The Commission shall ensure the transparency of the ethics procedures as much as possible.
3. Entities participating in the action shall obtain all approvals or other mandatory documents from the relevant national, local ethics committees or other bodies such as data protection authorities before the start of the relevant activities. Those documents shall be kept on file and provided to the Commission.
4. If appropriate, ethics checks shall be carried out by the Commission during the implementation of the action. For serious or complex ethics issues, the checks shall be carried out by the Commission with the support of experts on defence ethics.
5. Actions which are not ethically acceptable may be rejected or terminated at any time.

**CHAPTER II**  
**FINANCIAL PROVISIONS**

*Article 8*  
*Implementation and forms of EU funding*

1. The Fund shall be implemented in direct management in accordance with the Financial Regulation.
2. The Fund may provide funding in any of the forms laid down in the Financial Regulation, in particular grants, prizes and procurement. It may also provide financing in the form of financial instruments within blending operations.

*Article 9*  
*Cumulative, complementary and combined funding*

1. An action that has received a contribution from another Union programme may also receive a contribution under the Fund, provided that the contributions do not cover the same costs. The rules of each contributing Union programme/Fund shall apply to its respective contribution to the action. The cumulative funding shall not exceed the total eligible costs of the action and the support from the different Union programmes may be calculated on a pro-rata basis in accordance with the documents setting out the conditions for support.
2. Actions awarded a Seal of Excellence certification, or which comply with the following cumulative, comparative, conditions:
  - (a) they have been assessed in a call for proposals under the Fund;
  - (b) they comply with the minimum quality requirements of that call for proposals;
  - (c) they may not be financed under that call for proposals due to budgetary constraints,

may receive support from the European Regional Development Fund, the Cohesion Fund, the European Social Fund or the European Agricultural Fund for Rural Development, in accordance with paragraph 5 of Article [65] of Regulation (EU) XX [Common Provisions Regulation] and Article [8] of Regulation (EU) XX [Financing, management and monitoring of the Common Agricultural Policy], provided that such actions are consistent with the objectives of the programme concerned. The rules of the Fund providing support shall apply.

## **CHAPTER III GRANTS**

### *Article 10 Eligible entities*

1. Applicants and their subcontractors shall be eligible for funding provided that they are established in the Union or in an associated country, have their executive management structures in the Union or in an associated country and are not controlled by a non-associated third country or by a non-associated third country entity.
2. By derogation from paragraph 1, an applicant established in the Union or in an associated country and controlled by a non-associated third country or a non-associated third country entity may be eligible for funding if this is necessary for achieving the objectives of the action and provided that its participation will not put at risk the security interests of the Union and its Member States. In order to ensure protection of the security interests of the Union and its Member States, the call for proposals shall require the applicant to provide information demonstrating notably that:
  - (a) the control over the applicant will not be exercised in a manner that restricts in any way its ability to perform and complete the action;
  - (b) the access by non-associated third countries or by non-associated third country entities to classified and non-classified sensitive information relating to the action will be prevented; and the persons involved in the action will have national security clearance issued by a Member State or associated country;
  - (c) the results of the action shall remain within the beneficiary and shall not be subject to control or restrictions by non-associated third countries or other non-associated third country entities during the action and for a specified period after its completion;
3. All infrastructure, facilities, assets and resources used in actions financed under the Fund shall be located on the territory of the Union or associated countries. Furthermore, when performing an eligible action, beneficiaries and their subcontractors shall cooperate only with legal entities established in the Union or in an associated country and not controlled by non-associated third countries or non-associated third country entities.
4. By derogation from the paragraph 3 beneficiaries and subcontractors involved in the action may use their assets, infrastructure, facilities and resources located or held on the territory of a

non-associated third country if this is necessary for achieving the objectives of an action and provided that this will not put at risk the security of the Union and its Member States. Under the same conditions, when performing an eligible action, beneficiaries and their subcontractors may cooperate with an entity established in a non-associated third country. The costs related to the use of such infrastructure, facilities, assets or resources and to such cooperation shall not be eligible under the Fund.

5. In order to ensure protection of the security interests of the Union and its Member States, the call for proposals or grant agreement shall specify further conditions. These conditions shall relate, in particular to the provisions on ownership of results of the action and access to classified and non-classified sensitive information and to guarantees on security of supply.
6. Applicants shall provide all relevant information necessary for the assessment of the eligibility criteria and the conditions referred to in paragraphs 1 to 4.
7. Applications which require the verifications under paragraph 2 or paragraph 4 may only be submitted with the agreement of the Member State or associated country in which the applicant is established.
8. In the event of a change during the implementation of an action which might question the fulfilment of those criteria and conditions, the beneficiary shall inform the Commission, which shall assess whether those criteria and conditions are still met and address the potential impact on the funding of the action.
9. For the purpose of this Article, subcontractors means subcontractors with a direct contractual relationship to a beneficiary, other subcontractors to which at least 10% of the total eligible costs of the action is allocated, and subcontractors which may require access to classified information according to Commission Decision (EU, Euratom) 2015/444 in order to carry out the action.

#### *Article 11* *Eligible actions*

1. Only actions implementing the objectives referred to in Article 3 shall be eligible for funding.
2. The Fund shall provide support for actions covering both new and upgrade of existing products and technologies where the use of pre-existing information needed to perform the upgrade is not subject, directly or indirectly to a restriction by non-associated third countries or non-associated third country entities.
3. An eligible action shall relate to one or more of the following items:
  - (a) activities aiming to create, underpin and improve new knowledge and defence technology which can achieve significant effects in the area of defence;
  - (b) activities aiming to increase interoperability and resilience, including secured production and exchange of data, master critical defence technologies, strengthen the security of supply or enable effectively exploitation of results for defence products and technologies;
  - (c) studies, such as feasibility studies to explore the feasibility of a new or improved technology, product, process, service, solution or statistics on the defence industry and projects to pilot the collection of data;
  - (d) the design of a defence product, tangible or intangible component or technology as well as the definition of the technical specifications on which such design has been

- developed which may include partial tests for risk reduction in an industrial or representative environment;
- (e) the development of a model of a defence product, tangible or intangible component or technology, which can demonstrate the element's performance in an operational environment (system prototype);
  - (f) the testing of a defence product, tangible or intangible component or technology;
  - (g) the qualification of a defence product, tangible or intangible component or technology. Qualification is the entire process of demonstrating that the design of a defence product, tangible or intangible component or technology meets the specified requirements. This process provides objective evidence by which particular requirements of a design are demonstrated to have been achieved;
  - (h) the certification of a defence product, tangible or intangible component or technology. Certification is the process according to which a national authority certifies that the defence product, tangible or intangible component or technology complies with the applicable regulations;
  - (i) the development of technologies or assets increasing efficiency across the life cycle of defence products and technologies;
  - (j) dissemination activities, networking events and awareness-raising activities.
4. Unless otherwise provided for in the work programme referred to in Article 27, the action shall be undertaken in a cooperation of at least three legal entities which are established in at least three different Member States and/or associated countries. At least three of these eligible entities established in at least two Member States and/or associated countries shall not, during the whole implementation of the action, be effectively controlled, directly or indirectly, by the same entity, and shall not control each other.
5. Paragraph 4 shall not apply to for actions referred to in points c) and j) of paragraph 3 and to actions referred to in Article 6.
6. Actions for the development of products and technologies the use, development or production of which is prohibited by applicable international law shall not be eligible.

#### *Article 12*

##### *Selection and award procedure*

1. Grants may be awarded without a call for proposals to legal entities identified in the work programme in accordance with Article [195(e)] of the Financial Regulation.
2. The Commission shall award the funding for selected actions after each call or after application of Article [195(e)] of the Financial Regulation.
3. For the award of funding for development actions, the Commission shall act by means of implementing acts adopted in accordance with the procedure referred to in Article 28 paragraph 2.

#### *Article 13*

##### *Award criteria*

1. Each proposal shall be assessed on the basis of the following criteria:

- (a) contribution to excellence or potential of disruption in the defence domain in particular by showing that the expected results of the proposed action present significant advantages over existing products or technologies;
  - (b) contribution to the innovation and technological development of the European defence industry, in particular by showing that the proposed action includes ground-breaking or novel concepts and approaches, new promising future technological improvements or the application of technologies or concepts previously not applied in defence sector;
  - (c) contribution to the competitiveness of the European defence industry, in particular by creating new market opportunities and accelerating the growth of companies throughout the Union;
  - (d) contribution to the security and defence interests of the Union in line with the priorities referred to in Article 3 paragraph 2 and, where appropriate, regional and international cooperative agreements;
  - (e) contribution to the creation of new cross-border cooperation between legal entities, in particular for SMEs which are established in Member States and/or associated countries other than those where the entities in the consortium which are not SMEs are established;
  - (f) quality and efficiency of the implementation of the action.
2. Under points (d) of paragraph 1, regional and international priorities may be taken into account, in particular to avoid unnecessary duplication, provided they serve the Union's security and defence interests and do not exclude the participation of any Member State.

*Article 14*  
*Co-financing rate*

1. The Fund may finance up to 100% of the eligible costs of an action without prejudice to the co-financing principle.
2. By derogation from paragraph 1:
  - (a) for actions defined in Article 11(3)(e) the financial assistance of the Fund shall not exceed 20% of the eligible costs of the action,
  - (b) for actions defined in Article 11(3) f) to h) the financial assistance of the Fund shall not exceed 80% of the eligible costs of the action.
3. For development actions the funding rate shall be increased in the following cases:
  - (a) an action developed in the context of the Permanent Structured Cooperation as established by Council Decision (CFSP) 2017/2315 of 11 December 2017, it may benefit from a funding rate increased by an additional 10 percentage points;
  - (b) a consortium shall benefit from a funding rate increased by the percentage points equivalent to the percentage of the total eligible costs allocated to SMEs established in a Member State or an associated country other than those in which the consortium members that are not SMEs are established in;
  - (c) a consortium shall benefit from a funding rate increased by the percentage points equivalent to the quarter of the percentage of the total eligible costs allocated to mid-caps established in a Member State or an associated country other than those in which the other consortium members that are not SMEs or mid-caps are established in;

- (d) the overall increase in the funding rate of an action shall not exceed 30 percentage points.

*Article 15*  
*Financial capacity*

By derogation from Article [198] of the Financial Regulation:

- (a) the financial capacity shall be verified only for the coordinator and only if the requested funding from the Union is equal to or greater than EUR 500 000. However, if there are grounds to doubt the financial capacity, the Commission shall verify also the financial capacity of other applicants or of coordinators below the threshold referred to in the first sentence;
- (b) the financial capacity shall not be verified in respect of legal entities whose viability is guaranteed by a Member State and in respect of universities;
- (c) if the financial capacity is structurally guaranteed by another legal entity, the financial capacity of the latter shall be verified.

*Article 16*  
*Indirect costs*

1. Indirect eligible costs shall be determined by applying a flat rate of 25 % of the total direct eligible costs, excluding direct eligible costs for subcontracting, financial support to third parties and any unit costs or lump sums which include indirect costs.
2. Where appropriate, indirect eligible costs beyond the flat rate of 25 % may be determined in accordance with the beneficiary's usual cost accounting practices on the basis of actual indirect costs provided that these cost accounting practices are accepted by national authorities under comparable funding schemes in accordance with Article [185] of the Financial Regulation and communicated to the Commission.

*Article 17*  
*Use of single lump sum or contribution not linked to costs*

1. For grants awarded to actions referred to Article 11(3)(e) and other actions where Member States and/or associated countries finance the major part of the budget, the Commission may use:
  - (a) a contribution not linked to costs referred to in Article [180(3)] of the Financial Regulation and based on the achievement of results measured by reference to previous set milestones or through performance indicators; or
  - (b) a single lump sum referred to in Article [182] of the Financial Regulation and based on the provisional budget of the action already endorsed by the national authorities of the co-financing Member States and associated countries.
2. Indirect costs shall be included in the lump sum.

*Article 18*  
*Pre-commercial procurement*

1. The Union may support pre-commercial procurement through awarding a grant to contracting authorities or contracting entities as defined in Directives 2014/24/EU<sup>18</sup>, 2014/25/EU<sup>19</sup> and 2009/81/EC<sup>20</sup> of the European Parliament and of the Council, which are jointly procuring research and development of defence services or coordinating their procurement procedures.
2. The procurement procedures:
  - (a) shall be in line with the provisions of this Regulation;
  - (b) may authorise the award of multiple contracts within the same procedure (multiple sourcing);
  - (c) shall provide for the award of the contracts to the tender(s) offering best value for money.

*Article 19*  
*Guarantee Fund*

Contributions to a mutual insurance mechanism may cover the risk associated with the recovery of funds due by recipients and shall be considered a sufficient guarantee under the Financial Regulation. The provisions laid down in [Article X of] Regulation XXX [successor of the Regulation on the Guarantee Fund] shall apply.

**CHAPTER IV**  
**OTHER FORMS OF UNION FUNDING**

*Article 20*  
*Eligibility conditions for procurement and prizes*

Where necessary for the protection of the essential security interest of the Union and its Member States, the Commission shall set the requisite eligibility conditions applicable to the procurement or prizes financed by the Fund. Particular regard shall be had, for that purpose, to the need for recipients to be established in the Union or in associated countries, to commit to carry out any relevant activities inside the Union and not to be effectively controlled by non-associated third countries or non-

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<sup>18</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC. (OJ L 94, 28.03.2014, p. 65).

<sup>19</sup> Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.03.2014, p. 243).

<sup>20</sup> Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.08.2009, p.76).

associated third country' entities. Those conditions shall be included in the documents relating to the procurement or prize, as applicable, and shall apply to the full life cycle of the resulting contract.

*Article 21*  
*Blending operations*

Blending operations decided under this Fund shall be implemented in accordance with the [InvestEU regulation] and Title X of the Financial Regulation.

## **TITLE II**

### **SPECIFIC PROVISIONS**

### **APPLICABLE FOR RESEARCH**

#### *Article 22*

#### *Ownership of results*

1. The results of the actions shall be owned by the beneficiaries generating them. Where legal entities jointly generate results, and where their respective contribution cannot be ascertained, or where it is not possible to separate such joint results, the legal entities shall have joint ownership of the results.
2. If Union assistance is provided in the form of public procurement, results shall be owned by the Union. Member States and associated countries shall enjoy access rights to the results, free of charge, upon their explicit request.
3. If justified the grant agreement may require that the results of actions receiving support from the Fund shall not be subject to any control or restriction, directly or indirectly through one or more intermediate legal entities, including in terms of technology transfer by a non-associated third country or by a non-associated third country entity.
4. The grant agreement shall, if justified, lay down the right of the Commission to be notified of and object to the transfer of ownership to results or to the granting of a license regarding results to a non-associated third country or a non-associated third country entity. Such transfers shall not contravene the defence and security interests of the Union and its Member States or the objectives of this Regulation as set out in Article 3.
5. The national authorities of Member States and associated countries shall enjoy access rights to the special report of a project that has received Union funding. Such access rights shall be granted on a royalty-free basis and transferred by the Commission to the Member States and associated countries after ensuring that appropriate confidentiality obligations are in place.
6. The national authorities of Member States and associated countries shall use the special report solely for purposes related to the use by or for their armed forces, or security or intelligence forces, including within the framework of their cooperative programmes. Such usage shall include, but not be limited to, the study, evaluation, assessment, research, design, development, manufacture, improvement, modification, maintenance, repair, refurbishment, and product acceptance and certification, operation, training, disposal and other design services and product deployment, as well as the assessment and drafting of technical requirements for procurement.
7. The beneficiaries shall grant access rights to their results on a royalty-free basis to the Union institutions, bodies or agencies, for duly justified purpose of developing, implementing and monitoring Union policies or programmes. Such access rights shall be limited to non-commercial and non-competitive use.
8. Specific provisions regarding ownership, access rights and licensing shall be laid down in the grant agreements and contracts regarding pre-commercial procurement to ensure maximum uptake of the results and to avoid any unfair advantage. The contracting authorities shall enjoy at least royalty-free access rights to the results for their own use and the right to grant, or require the recipients to grant, non-exclusive licences to third parties to exploit the results under fair and reasonable conditions without any right to sub-license. All Member States and associated countries shall have royalty-free access to the special report. If a contractor fails to

commercially exploit the results within a given period after the pre-commercial procurement as identified in the contract, it shall transfer any ownership of the results to the contracting authorities.

# **TITLE III**

## **SPECIFIC PROVISIONS**

### **APPLICABLE FOR DEVELOPMENT**

#### *Article 23*

##### *Additional eligibility criteria*

1. Where applicable, the consortium shall demonstrate that the remaining costs of an eligible action which are not covered by the Union support will be covered by other means of financing such as Member States' and/or associated countries' contributions or co-financing from legal entities.
2. When it relates to actions referred to in point d) of Article 11 paragraph 3, the action shall be based on harmonised capability requirements jointly agreed by the relevant Member States and/or associated countries.
3. For actions referred to in points e) to h) of Article 11 paragraph 3, the consortium shall demonstrate by means of documents issued by national authorities that:
  - (a) at least two Member States and/or associated countries intend to procure the final product or use the technology in a coordinated way, including joint procurement;
  - (b) the action is based on common technical specifications jointly agreed by the Member States and/or associated countries which co-finance the action.

#### *Article 24*

##### *Additional award criteria*

In addition to the award criteria referred to in Article 13, the work programme may also take into consideration:

- (a) the contribution to increasing efficiency across the life cycle of defence products and technologies, including cost-effectiveness and the potential for synergies in the procurement and maintenance process and disposal processes;
- (b) the level of cooperation between Member States in the eligible action.

#### *Article 25*

##### *Ownership of results*

1. The Union shall not own the products or technologies resulting from development actions, nor shall it have any intellectual property rights regarding the results of the actions.
2. The results of actions receiving support from the Fund shall not be subject to any control or restriction by non-associated third countries or by non-associated third country entities, directly or indirectly through one or more intermediate legal entities, including in terms of technology transfer.
3. With regard to results generated by recipients, the Commission shall be notified of any transfer of ownership or grant of a licence to non-associated third countries. Such transfer of ownership or granting of a licence shall not contravene the defence and security interests of the Union and its Member States or the objectives of this Regulation as set out in Article 3, otherwise it will necessitate reimbursement of the funding provided under the Fund.

4. By derogation from paragraph 1, where the Union assistance is provided in the form of public procurement, the Union shall own the results and Member States and/or associated countries shall have the right, free of charge, to a non-exclusive licence for the use of the results upon their written request.

*Article 26*  
*Information of the project manager*

In case a project manager is appointed by Member States and associated countries, the Commission shall execute the payment to the recipients after informing the project manager.

## **TITLE IV**

# **GOVERNANCE, MONITORING, EVALUATION AND CONTROL**

### *Article 27*

#### *Work programmes*

1. The Fund shall be implemented by annual or multi annual work programmes established in accordance with Article [110] of the Financial Regulation. Work programmes shall set out, where applicable, the overall amount reserved for blending operations.
2. The Commission shall adopt the work programmes by means of implementing acts in accordance with the procedure referred to in Article 28 paragraph 2.

### *Article 28*

#### *Committee*

1. The Commission shall be assisted by a committee within the meaning of Regulation (EU) No 182/2011. The European Defence Agency shall be invited as an observer to provide its views and expertise. The European External Action Service shall also be invited to assist.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

### *Article 29*

#### *Independent experts*

1. The Commission shall appoint independent experts to assist in the evaluation of proposals pursuant to Article [237] of the Financial Regulation. It may also appoint independent experts to advise on or assist with the monitoring of the implementation of actions carried out.
2. Independent experts shall be Union's citizens identified and selected on the basis of calls for expressions of interest addressed to relevant organisations such as Ministries of Defence and subordinated agencies, research institutes, universities, business associations or enterprises of the defence sector with a view to establishing a list of experts. By derogation from Article [237] of the Financial Regulation, this list shall not be made public.
3. Independent experts shall have the appropriate security clearance issued by a Member State.
4. The Committee referred to in Article 28 shall be informed annually on the list of experts.
5. Independent experts shall be chosen on the basis of their skills, experience and knowledge appropriate to carry out the tasks assigned to them.

### *Article 30*

#### *Application of the rules on classified information*

1. Within the scope of this Regulation:
  - (a) each Member State or associated country shall ensure that its national security regulations offer a degree of protection of European Union classified information equivalent to that provided by the rules on security as set out in Commission Decision

(EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information<sup>21</sup> and by the security rules of the Council set out in the Annexes to Decision 2013/488/EU<sup>22</sup>;

- (b) Member States and associated countries shall without delay inform the Commission of the national security regulations referred to in point (a);
  - (c) natural persons resident in and legal persons established in non-associated third countries may deal with EU classified information regarding the Fund only where they are subject, in those countries, to security regulations ensuring a degree of protection at least equivalent to that provided by the Commission's rules on security set out in Commission Decision (EU, Euratom) 2015/444 and by the security rules of the Council set out in the Annexes to Decision 2013/488/EU. The equivalence of the security regulations applied in a third country or international organisation shall be defined in a security of information agreement, including industrial security matters if relevant, concluded between the Union and that third country or international organisation in accordance with the procedure provided for in Article 218 TFEU and taking into account Article 13 of Decision 2013/488/EU;
  - (d) without prejudice to Article 13 of Decision 2013/488/EU and to the rules governing the field of industrial security as set out in Commission Decision (EU, Euratom) 2015/444, a natural person or legal person, third country or international organisation may be given access to European Union classified information where deemed necessary on a case-by-case basis, according to the nature and content of such information, the recipient's need-to-know and the degree of advantage to the Union.
2. When actions involve, require and/or contain classified information, the relevant funding body shall specify in the call for proposals/tenders documents the measures and requirements necessary to ensure the security of such information at the requisite level.
  3. In order to facilitate exchange of sensitive information between the Commission, the recipients and, where applicable the Member states, the Commission shall set up an electronic exchange system.

*Article 31*  
*Monitoring and reporting*

1. Indicators to monitor implementation and progress of the Fund towards the achievement of the general and specific objectives set out in Article 3 are set out in Annex.
2. To ensure effective assessment of progress of the Fund towards the achievement of its objectives, the Commission is empowered to adopt delegated acts in accordance with Article 36 to amend the Annex to review or complement the indicators where considered necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework.

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<sup>21</sup> OJ L 72, 17.3.2015, p. 53–88.

<sup>22</sup> OJ L 274, 15.10.2013, p. 1–50.

3. The Commission shall regularly monitor the implementation of the Fund and annually report on the progress made. To this end, the Commission shall put in place necessary monitoring arrangements.
4. The performance reporting system shall ensure that data for monitoring the Fund implementation and results are collected efficiently, effectively and in a timely fashion. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds.

*Article 32*  
*Evaluation of the Fund*

1. Evaluations shall be carried out in a timely manner to feed into the decision-making process.
2. The interim evaluation of the Fund shall be performed once there is sufficient information available about the implementation of the Fund, but no later than four years after the start of the Fund implementation. The interim evaluation report will include notably, an assessment of the governance of the Fund, implementation rates, project award results including SMEs and mid-caps involvement and the degree of their cross-border participation, and funding granted in accordance with Article [195] of the Financial Regulation by 31 July 2024. The Commission may submit proposals for any appropriate amendments to the present regulation.
3. At the end of the implementation period but no later than four years after the 31 December 2031, a final evaluation of the Fund implementation shall be carried out by the Commission. The final evaluation report shall include the results of the implementation and to the extent possible given timing the impact of the Fund. The report - building on relevant consultations of Member States and associated countries and key stakeholders - shall notably assess the progress made towards the achievement of objectives set out in Article 3. It shall also analyse cross border participation, including of SMEs and mid-caps in projects implemented under the Fund as well as the integration of SMEs and Mid-caps in the global value chain. The evaluation shall also contain information on the countries of origin of the recipients and, where possible, the distribution of the generated intellectual property rights.
4. The Commission shall communicate the conclusions of the evaluations accompanied by its observations, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

*Article 33*  
*Audits*

Audits on the use of the Union contribution carried out by persons or entities, including by other than those mandated by the Union Institutions or bodies, shall form the basis of the overall assurance pursuant to Article [127] of the Financial Regulation. The European Court of Auditors shall examine the accounts of all revenue and expenditure of the Union according to Article 287 TFEU.

*Article 34*  
*Protection of the financial interests of the Union*

Where a third country participates in the Fund by a decision under an international agreement or by virtue of any other legal instrument, the third country shall grant the necessary rights and access required for the authorising officer responsible, the European Anti-Fraud Office (OLAF), the European Court of Auditors to comprehensively exert their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, provided for in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council concerning investigations conducted by the European Anti-Fraud Office (OLAF).

*Article 35*  
*Information, communication and publicity*

1. The recipients of Union funding shall acknowledge the origin and ensure the visibility of the Union funding (in particular when promoting the actions and their results) by providing coherent, effective and proportionate targeted information to multiple audiences, including, the media and the public.
2. The Commission shall implement information and communication actions relating to the Fund, and its actions and results. Financial resources allocated to the Fund shall also contribute to the corporate communication of the political priorities of the Union, as far as they are related to the objectives referred to in Article 3.

# TITLE V

## DELEGATED ACTS, TRANSITIONAL AND FINAL PROVISIONS

### *Article 36*

#### *Delegated acts*

1. The power to adopt delegated acts referred to in Article 31 shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Regulation.
2. The delegation of power referred to in Article 31 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.
3. 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 on Better Law-Making of 13 April 2016.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 31 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.

### *Article 37*

#### *Repeal*

6. Regulation (EU) No .../... (European Defence Industrial Development Programme) is repealed with effect from 1 January 2021.

### *Article 38*

#### *Transitional provisions*

1. This Regulation shall not affect the continuation or modification of the actions concerned, until their closure, under [European Defence Industrial Development Programme Regulation] as well as the Preparatory Action for Defence Research, which shall continue to apply to the actions concerned until their closure.
2. The financial envelope of the Fund may also cover technical and administrative assistance expenses necessary to ensure the transition between the Fund and the measures adopted under its predecessors, the [European Defence Industrial Development Programme Regulation] as well as the Preparatory Action for Defence Research.
3. If necessary, appropriations may be entered in the budget beyond 2027 to cover the expenses provided for in Article 4 paragraph 4, to enable the management of actions not completed by 31 December 2027.

*Article 39*  
*Entry into force*

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*. It shall be applicable as from 1<sup>st</sup> January 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## LEGISLATIVE FINANCIAL STATEMENT

### **1. FRAMEWORK OF THE PROPOSAL/INITIATIVE**

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned (*programme cluster*)
- 1.3. Nature of the proposal/initiative
- 1.4. Grounds for the proposal/initiative
- 1.5. Duration and financial impact
- 1.6. Management mode(s) planned

### **2. MANAGEMENT MEASURES**

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities

### **3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE**

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
  - 3.2.1. *Summary of estimated impact on expenditure*
  - 3.2.2. *Estimated impact on appropriations of an administrative nature*
  - 3.2.3. *Third-party contributions*
- 3.3. Estimated impact on revenue

## LEGISLATIVE FINANCIAL STATEMENT

### 1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

#### 1.1. Title of the proposal/initiative

Proposal for a regulation of the European Parliament and of the Council establishing the European Defence Fund for the period 2021-2027

#### 1.2. Policy area(s) concerned (*Programme cluster*)

Security and Defence

#### 1.3. The proposal/initiative relates to:

a new action

a new action following a pilot project/preparatory action<sup>23</sup> for the defence applied research window of the European Defence Fund

the extension of an existing action for the development of defence capacities' window of the European Defence Fund

a merger or redirection of one or more actions towards another/a new action

#### 1.4. Grounds for the proposal/initiative

##### 1.4.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

The legislative proposal establishing the European Defence Fund is based on Articles 173 TFEU (industry) and on 182 of TFEU (research). The general objective of the Fund is to improve the competitiveness of the defence industry.

The European Defence Fund regulation will enable the Commission to set a funding programme, mainly implemented through grants awarded after annual call for proposals and following work programmes adopted through a comitology procedure.

A complete set of procedures (financial, legal, IT; processing of sensitive information), documents and forms must be prepared, built on the experience gained during the implementation of the Preparatory Action for defence Research (2016-2018) and the European Defence Industrial Development Programme (2019-2020).

##### 1.4.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.

Reasons for action at European level (ex-ante)

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<sup>23</sup> As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

The defence R&D projects are currently managed quasi exclusively at a national level and the research and development phases are the most risky ones. Due to scarce national budget resources these phases are simply not financed in the majority of Member States leading to dependency from on-the-shelf products and from their providers.

The European defence sector is suffering from low level of investment and is characterised by fragmentation along national borders leading to persistent duplications. Besides, a look at the defence industries available in the EU, uncovers growing shortfalls, ageing technologies and a lack of new programmes, especially collaborative programmes. Cross border cooperation can help to better capture scale effects by reducing duplications and allowing for the development of the products and technologies needed.

Also the lack of coordination and coherence between Member States is a source of competitive disadvantage for the European defence industry vis-a-vis its international counterparts whilst it remains a major source of costs for the national budget and constitutes a significant impediment for the implementation of the Common Security and Defence Policy (CSDP).

Expected generated Union added value (ex-post)

Action at EU level will provide added-value by means of further stimulating industrial defence cooperation through positive incentives for innovation, including in technologies with disruptive effects, for defence applied research projects and for the development of defence products and technologies that cannot be undertaken at national level in view of the costs and associated risks.

The support of the European Union will allow the defence industry to allocate the necessary funding to projects which are frequently beyond the means of a single country: the nature of these projects and their costs make trans-national cooperation necessary.

The common technical specifications that will be legally required by the regulation will drive the Member States and their defence industry towards common standards, leading to a better and more efficient collaboration.

#### *1.4.3. Lessons learned from similar experiences in the past*

The Pilot action and the Preparatory Action on Defence for the defence applied research window and the European Defence Industrial Development Programme programme for the development of capacities window are programmes that are similar to the actions proposed: the return of experience on these programmes, in particular on the governance mode, is used to define the management and follow-up mechanism of the European Defence Fund.

#### *1.4.4. Compatibility and possible synergy with other appropriate instruments*

Synergies shall be sought with other research and innovation programmes implemented by other directorates of the European Commission:

- the projects to be financed by the European Defence Fund may benefit from the results of civilian of dual use research projects funded under Horizon Europe for example within the domains of air and waterborne transport.

- reciprocal effect is also expected where projects funded under Horizon Europe may benefit from the results of projects supported by the European Defence Fund: this

reflects the US experience from the Defence Advanced Research Projects Agency (DARPA) which shows that results of defence projects benefit to the civilian sector. The European Defence Fund may have, amongst others, an impact on transport, communications and energy domains.

It is important to ensure that R&D and innovation programmes are well coordinated to maximise synergies, the return on investment and coordination will be ensured for an effective cooperation.

## Duration and financial impact

### limited duration

in effect from 1/01/2021 to 31/12/2027

Financial impact from 1/01/2021 to 31/12/2027 for commitment appropriations and from 1/01/2021 to 31/12/2033 for payment appropriations.

### unlimited duration

Implementation with a start-up period from YYYY to YYYY,

followed by full-scale operation.

## Management mode(s) planned<sup>24</sup>

### Direct management by the Commission

by its departments, including by its staff in the Union delegations;

by the executive agencies

### Shared management with the Member States

### Indirect management by entrusting budget implementation tasks to:

non-associated third countries or the bodies they have designated;

international organisations and their agencies (to be specified);

the EIB and the European Investment Fund;

bodies referred to in Articles 70 and 71 of the Financial Regulation;

public law bodies;

bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;

bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;

persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

Comments

The Fund shall be implemented in direct management in accordance with the Financial Regulation.

Depending on the outcome of a future cost-benefit analysis, most of the budget could be implemented through delegation to an executive agency<sup>25</sup>.

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<sup>24</sup> Details of management modes and references to the Financial Regulation may be found on the BudgWeb site:  
<https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx>

## 2. MANAGEMENT MEASURES

### 2.1. Monitoring and reporting rules

*Specify frequency and conditions.*

In accordance with Article 29 of the proposed regulation establishing the European Defence Fund for the period 2021-2027, the Commission will regularly monitor the implementation of the programme and annually report on the progress made by examining the financial activities and assess achieved results.

The collected data should enable the Commission to report on the progress made in accordance with Article [38(3)(e) of Regulation 966/2012] and by reference to the specific objectives referred to in Article 3.2 of the draft regulation.

### 2.2. Management and control system(s)

#### 2.2.1. *Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed*

**Management Modes:** The Commission intends to implement the European Defence Fund in direct management (including through executive agencies as the preferred option).

Use of direct management mode for the main part of the budget dedicated to the European Defence Fund clarifies the responsibilities (implementation by authorising officers), shortens the delivery chain (reducing Time To Grant and Time To Pay) and reduces the implementation costs (no management fees).

**Funding implementation mechanisms:** Grant will be the main instrument of the European Defence Fund, including for supporting pre commercial procurement launched by Member States. Prizes may be used for disruptive innovation.

- Grants : Defence research is underfinanced or simply not financed in the majority of Member States and the R&D investments have few possibilities to be recovered by the industry (national market with unique buyer, reduction of national defence budget, hazardous exportation possibilities). Incentives for EU defence Research must be made through grants covering 100% of the eligible costs. The same logic will apply, as a rule, for the development of collaborative actions (studies, common certification,...) and for the support to MS' pre-commercial procurement , except for prototyping actions where the co-financing rate will be lower ('topping up' approach, from 20 to 50% co-financing).

- Prizes may be used to encourage disruptive innovation from a variety of stakeholders (universities, SMEs, research centres...) to detect new technologies or new assembling of existing technologies which may fill a defence need. In such paradigm, the estimation of costs is difficult and the prize appears as an economic tool compared to grants (only winner takes all).

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<sup>25</sup>

The programme might be (partially) delegated to an executive agency, subject to the outcome of the cost benefit analysis and related decisions to be taken; the related administrative appropriations for programme implementation in the Commission and the executive agency will be adapted accordingly.

**Payment modalities:** Wherever possible, the use of output based grants, including single lump sums, will be decided in order to reduce the implementing costs of the European Defence Fund:

- expected results and corresponding deliverables (documents) will be set in the grant agreements in order to initiate the payments and allow the clearing of the pre-financing;
- satisfactory execution of agreed expected results will rely on the expertise of third parties chosen by the Commission on the basis of their technical knowledge. Payment will then be made on the basis of an assessment report.

### **Control Strategy**

Wherever possible in actions implemented in direct management, the Commission will use instruments (procurement, grants, prizes) where eligible costs are estimated ex ante and reimbursed/paid on the basis of deliverables (reports) demonstrating that the expected results defined in the grant agreement (technical annexes) are met. Extensive recourse to lump sums and unit costs agreed ex ante will limit the error rate below 2%

Where necessary, qualitative assessment of the deliverables will be assessed by independent experts recruited by the Commission or, in specific cases (prototypes) by the project manager chosen with Member States (alignment of interests).

#### *2.2.2. Information concerning the risks identified and the internal control system(s) set up to mitigate them*

The identified risks for the implementation of the European Defence Fund are:

**Timetable Risk:** Schedule issue, delays in implementation.

Implementation in direct management should reduce this risk as the implementation by Authorising Officers (including Executive Agencies) shortens the Time To Grant (TTG) and the Time To Pay (TTP) compared to an implementation through a delegatee by avoiding the following steps:

- negotiation, preparation and signature of a Delegation Agreement,
- signature of annual Transfer of Fund Agreements before making available the commitment and the payment appropriations to the delegatee,
- financial management of related Transfer of Fund Agreements

**Governance risk and non-appropriation risk:**

- Lack of cooperation between Member States during the Comitology process.

The practice developed under the preparatory action and under European Defence Industrial Development Programme where Member States are involved since the preparation of the working programmes in a interactive way should limit the risk.

- Lack of attractiveness of the European Defence Fund vis à vis national industry, in particular due to inappropriate handling of sensitive information by the Commission or excessive red tapes in implementing modalities.

A specific network/system for the exchange of sensitive information will be set up and, where necessary, transparency rules will be suspended for due justified reasons (classified information, protection of personal data, industrial secret). For the evaluation process of the grant applications, the Commission will rely on

independent experts who will have an appropriate security clearance delivered by a Member State. The Commission will ensure an adequate rotation of these experts.

Wherever possible, the Commission will rely on the usual accounting practices of the stakeholders through unit costs.

**Financial risk:**

- High management costs, in particular for control costs;
- low budget absorption (delays, lack of attractiveness or bad definition of eligibility conditions);
- high error rate due to ineligible costs and poor understanding of the EU financial rules by beneficiaries or delegates.

The Commission envisages the implementation of the Fund by Authorising officers (including Executive Agencies) with trained and well-staffed teams. This ensures a good knowledge of financial and contracting rules by the implementation team of the European Defence Fund. Workshops will be organised to ensure good understanding of beneficiaries on their reporting obligations and on the applicable financial rules.

Furthermore, the Commission envisages simplified funding rules with output-based instruments (eg. single lump sums for topping up funding (prototypes)), high flat rate for indirect costs (+/- 25%). Clear and reasonable expected outputs will be inserted in the grant agreements on the basis of which payments will be made.

This should limit the ex-post controls on inputs (invoices, timesheets) focus these on outputs (demonstrator, prototype, certification report...), thus reducing the cost of controls and the error rate.

**Technical risks:** Difficulties in specific development projects (ethics, IPRs); technical issues; low performance level in terms of R&D results.

Clear IPR rules will be set in the model grant agreements for research and for development. All grant applications will be screened by an Ethical Committee (external experts) before selection, to ensure that activities are in accordance with international conventions. Although the selection of development projects will be based on reasonable chances of production (necessary co-financing of Member States), lack or poor results are inherent to research activities where right for failure should be accepted.

**Reputational risk:** expected difficulties with some NGOs which contest the rationale of the European Defence Fund and will contest its implementation at all levels .

The Commission envisages targeted communication activities – including recourse to crisis communication services – to justify the existence and the functioning of the European Defence Fund at Union level.

2.2.3. *Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)*

The main budget of the programme will be under direct management. Based on the Commission experience on the grant management, the overall control costs of the Fund by the Commission are estimated around 0.1% of the related funds managed.

In terms of expected error rate(s), the aim is to maintain the error rate below the threshold of 2%. The Commission considers that the implementation of the programme in direct management, with trained (experienced staff, possibly recruited as END) and well-staffed teams acting under delegated authorising officers, applying clear rules and making an appropriate use of output based instruments will maintain an error rate below the 2% materiality threshold.

### **2.3. Measures to prevent fraud and irregularities**

*Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.*

The European Anti-Fraud Office (OLAF) is competent to carry out investigations on operations supported under this initiative.

Agreements resulting from this Regulation, including agreements concluded with non-associated third country entities or international organisations, shall provide for supervision and financial control by the Commission, or any representative authorised by it, and audits by the Court of Auditors or OLAF, if necessary on-the-spot. Commission's officials who have the required security clearance, will make on site visits.

Lastly, the Member States' scrutiny on the list of selected projects as well as the participation of some Member States as co-financers of the biggest projects will limit the risk of fraud to taxpayers interests (alignment of interests between donors). Focus made on results with output based instruments will limit irregularities.

### 3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

#### 3.1. Heading of the multiannual financial framework and new expenditure budget line(s) proposed

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number 5 - Security and Defence	Diff./Non-diff. <sup>26</sup>	from EFTA countries <sup>27</sup>	from candidate countries <sup>28</sup>	from non-associated third countries	within the meaning of Article [21(2)(b)] of the Financial Regulation
	13.02.01 - Capability development	Diff	YES	NO	NO	NO
	13.02.02 – Defence research	Diff	YES	NO	NO	NO
	13.01.01 – Administrative support	Non diff.	YES	NO	NO	NO

<sup>26</sup> Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

<sup>27</sup> EFTA: European Free Trade Association.

<sup>28</sup> Candidate countries and, where applicable, potential candidates from the Western Balkans.

### 3.2. Estimated impact on expenditure

#### 3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

<b>Heading of multiannual financial framework</b>	<b>5</b>	<b>Security and Defence</b>
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			2021	2022	2023	2024	2025	2026	2027	Post 2027	TOTAL
13.02.01 - Capability development	Commitments	(1)	996.515	995.939	995.357	1,095.012	1,294.543	1,494.266	1,993.374		8,865.006
	Payments	(2)	252.448	446.251	583.628	810.579	981.440	1,214.568	1,409.358	3,166.735	8,865.006
13.02.02 – Defence research	Commitments	(1)	498.257	497.970	497.679	497.733	597.482	697.324	797.349		4,083.794
	Payments	(2)	123.978	262.396	324.408	389.666	463.085	537.022	613.865	1,369.373	4,083.794
13.01.01 – Administrative support <sup>29</sup>	Commitments = Payments	(3)	5.228	6.091	6.964	7.255	7.975	8.410	9.277		51.200
<b>TOTAL appropriations for the envelope of the programme</b>	Commitments	=1+3	<b>1,500.000</b>	<b>1,500.000</b>	<b>1,500.000</b>	<b>1,600.000</b>	<b>1,900.000</b>	<b>2,200.000</b>	<b>2,800.000</b>		<b>13,000.000</b>
	Payments	=2+3	<b>381.654</b>	<b>714.738</b>	<b>915.000</b>	<b>1,207.500</b>	<b>1,452.500</b>	<b>1,760.000</b>	<b>2,032.500</b>	<b>4,536.108</b>	<b>13,000.000</b>

<sup>29</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former ‘BA’ lines), indirect research, direct research.

<b>Heading of multiannual financial framework</b>	7	‘Administrative expenditure’
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EUR million (to three decimal places)

		2021	2022	2023	2024	2025	2026	2027	<i>Post 2027</i>	TOTAL
Human resources		5.768	6.631	7.711	8.002	8.722	9.156	10.024		<b>56.014</b>
Other administrative expenditure		0.390	0.398	0.406	0.414	0.422	0.431	0.439		<b>2.900</b>
<b>TOTAL appropriations under HEADING 7 of the multiannual financial framework</b>	(Total commitments = Total payments)	6.158	7.029	8.117	8.416	9.144	9.587	10.463		<b>58.914</b>

EUR million (to three decimal places)

		2021	2022	2023	2024	2025	2026	2027	<i>Post 2027</i>	TOTAL
<b>TOTAL appropriations across HEADINGS of the multiannual financial framework</b>	Commitments	1,506.158	1,507.029	1,508.117	1,608.416	1,909.144	2,209.587	2,810.463		<b>13,058.914</b>
	Payments	387.812	721.767	923.117	1,215.916	1,461.644	1,769.587	2,042.963	4,536.108	<b>13,058.914</b>

### 3.2.2. Summary of estimated impact on appropriations of an administrative nature

- The proposal/initiative does not require the use of appropriations of an administrative nature
- The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

Years	2021	2022	2023	2024	2025	2026	2027	TOTAL
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HEADING 7 of the multiannual financial framework								
Human resources	5.768	6.631	7.711	8.002	8.722	9.156	10.024	<b>56.014</b>
Other administrative expenditure	0.390	0.398	0.406	0.414	0.422	0.431	0.439	<b>2.900</b>
<b>Subtotal HEADING 7 of the multiannual financial framework</b>	<b>6.158</b>	<b>7.029</b>	<b>8.117</b>	<b>8.416</b>	<b>9.144</b>	<b>9.587</b>	<b>10.463</b>	<b>58.914</b>

Outside HEADING 7 <sup>30</sup> of the multiannual financial framework								
Human resources								
Other expenditure of an administrative nature	5.228	6.091	6.964	7.255	7.975	8.410	9.277	<b>51.200</b>
<b>Subtotal outside HEADING 7 of the multiannual financial framework</b>	<b>5.228</b>	<b>6.091</b>	<b>6.964</b>	<b>7.255</b>	<b>7.975</b>	<b>8.410</b>	<b>9.277</b>	<b>51.200</b>

<b>TOTAL</b>	<b>11.386</b>	<b>13.120</b>	<b>15.081</b>	<b>15.671</b>	<b>17.119</b>	<b>17.997</b>	<b>19.740</b>	<b>110.114</b>
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The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

<sup>30</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

### 3.2.2.1. Estimated requirements of human resources

The proposal/initiative does not require the use of human resources.

The proposal/initiative requires the use of human resources, as explained below:

*Estimate to be expressed in full time equivalent units*

Years	2021	2022	2023	2024	2025	2026	2027	
<b>• Establishment plan posts (officials and temporary staff)</b>								
Headquarters and Commission's Representation Offices	30	35	41	42	46	48	52	
Delegations								
Research								
<b>• External staff (in Full Time Equivalent unit: FTE) - AC, AL, END, INT and JED</b> <sup>31</sup>								
Heading 7								
Financed from HEADING 7 of the multiannual financial framework	- at Headquarters	19	21	24	26	28	30	34
	- in Delegations							
Financed from the envelope of the programme <sup>32</sup>	- at Headquarters							
	- in Delegations							
Research								
Other (specify)								
<b>TOTAL</b>	<b>49</b>	<b>56</b>	<b>65</b>	<b>68</b>	<b>74</b>	<b>78</b>	<b>86</b>	

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints. The above table estimates, for the period of the next multi-annual financial framework, the FTE needed:

Description of tasks to be carried out:

Officials and temporary staff	Policy tasks and team management for the implementation of the grant programme
External staff	Implementation of the grant funding schemes

<sup>31</sup> AC= Contract Staff; AL = Local Staff; END = Seconded National Expert; INT = agency staff; JPD= Junior Professionals in Delegations.

<sup>32</sup> Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

*Third-party contributions*

The proposal/initiative:

- does not provide for co-financing by third parties
- provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

Years	2021	2022	2023	2024	2025	2026	2027	TOTAL
Specify the co-financing body	p.m.							
TOTAL appropriations co-financed	p.m.							

**Estimated impact on revenue**

- The proposal/initiative has no financial impact on revenue.
- The proposal/initiative has the following financial impact:
  - on own resources
  - on other revenue

please indicate, if the revenue is assigned to expenditure lines

EUR million (to three decimal places)

Budget revenue line:	Impact of the proposal/initiative <sup>33</sup>						
	2021	2022	2023	2024	2025	2026	2027
Article .....	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.

For assigned revenue, specify the budget expenditure line(s) affected.

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Other remarks (e.g. method/formula used for calculating the impact on revenue or any other information).

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<sup>33</sup> As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.