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Introduction

The Commission Von der Leyen II will have defence as one of its top priorities. The appointment of the first-ever Commissioner for Defence, Andrius Kubilius, remarks the growing importance of the European Commission in the defence policy whilst also fermenting uncertainty over the complementarity of this new portfolio with the High Representative for Common Foreign and Security Policy (HR/VP). Furthermore, the future European Defence Industry Programme (EDIP) Regulation alongside its connection to the PESCO's Strategic Review and the completion of certain emergency funding tools, like the European Defence Industry Reinforcement through Common Procurement Act (EDIRPA) and the Regulation on supporting Ammunition Production (ASAP), will play a crucial role in shaping the new responsibilities and the delimitation of competencies of the High Representative/Vice President (HR/VP).

This paper analyses the link between the EU diplomatic and foreign affairs chief, Kaja Kallas, and the first-ever Commissioner for Defence, Andrius Kubilius, identifying the possible conflicts or overlaps and suggesting a new coordination mechanism between both roles. For this purpose, it will firstly summarise the legal basis of the competencies of the HR/VP according to the Treaties and analyse the responsibilities laid upon Kaja Kallas by the President of the Commission (PoC) in her Mission Letter. Likewise, this paper will ascertain what role the Defence Commissioner will play. After delimitating both roles, the article will analyse the main conflicts and risks of overlapping in their portfolios. Finally, it suggests a new mechanism of cooperation in the Treaties that could facilitate cooperation between both roles and solve long-lasting coordination problems among the multiple defence funding instruments.

1. The Legal Basis and Framework for the HR and the Commissioner for Defence.

The HR/VP role according to the Treaties and the President of the Commission's Mission Letter for Kaja Kallas.

The Treaty of Amsterdam created the position of High Representative for Common Foreign and Security Policy. The creation and evolution of the position under the Treaty of Lisbon, which expanded its competence by including the role of Vice-President of the Commission in its Article (EU, 2007), reflect the growing importance of the CFSP in Europe. This switch highlights the utter need for clearer external representation, as opposed to the previous accumulation of roles with similar responsibilities, while it also demonstrates the political commitment to advancing a European Defence Union. Kaja Kallas, the former Estonian Prime Minister, is the fourth person to hold this position. Starting in December 2024, she will

face a mandate full of challenges and uncertainty. This section will be covering the competencies conferred by the Treaties and the Mission Letter sent by the President of the Commission, analysing her role as HR and VP for the next five years.

The role of the HR/VP is twofold. According to Articles 18, 26 and 27 of the Treaty of the European Union (TEU), the HR is in charge of conducting, developing and implementing the Common Foreign Security Policy (CFSP) and the Common Security and Defence Policy (CSDP), carrying out the mandate of the Council and chairing the Foreign Affairs Council (FAC). Correspondingly, as VP of the Commission, she must ensure the coherence and consistency of the EU's external action, coordinating other aspects like humanitarian aid, neighbourhood policy, development and trade as per Art. 18.3 (EU, 2007). She will be assisted by the EU's diplomatic service, the European External Action Service (EEAS), and the European Defence Agency, both acting under her command. Furthermore, the TEU allows the HR/VP to propose a special representative for specific policy issues that would work under her sole authority.

As HR, Kallas is in charge of the European security and defence policies and plays a key role with her proposals, as stated in Article 27 (EU, 2007). For instance, one of the first proposals she will publish will be for the Permanent Structured Cooperation's (PESCO) new Strategic Review in May 2025. In addition to her role as Chair of the FAC, established in Article 18.3 (EU, 2007), and Article 7, which outline her role as Director of the European Defence Agency EDA (Council Decision (CFSP) 2015/1835) and the PESCO's Secretariat (CFSP 2017/2315) is crucial for enhancing defence cooperation, the development of capabilities, the harmonisation of operational needs and defence equipment and the increase of defence budget and common investment in defence.

While appointing the new HR/VP, Ursula Von der Leyen set three main priorities in the Mission Letter: the strengthening of Europe's security and defence, the development of a more strategic approach to EU's neighbourhood and partnerships, and the creation of a modern and joined-up foreign policy (Von der Leyen, 2024). As the same letter foresees, many responsibilities for this mandate involve deep cooperation with other commissioners' portfolios, like Enlargement, Mediterranean, Defence and Space or International Partnerships. Still, this paper will exclusively focus on defence policy-related issues.

Strengthening Europe's security and defence includes coordinating the work on building a true European Defence Union, presenting a White Paper on the Future of European Defence along with the Commissioner for Defence and strengthening the EU-NATO partnership. To carry out these tasks, it will be essential to explore all means of interinstitutional cooperation and coordination and to harness/extract the potential of every existing instrument and tool.

Likewise, to ensure that the EU can act faster and more effectively, the President of the Commission encourages Ms Kallas to trigger the use of the clauses that allow decisions taken by a qualified majority.

Last, Von der Leyen remarks that the HR/VP “will work under her guidance” (2024) on every issue stated in the letter. This statement aims to avoid conflicts during the previous mandate with top members of the College of Commissioners like former Internal Market Commissioner Thierry Breton or HR/VP Josep Borrell. Thereby, we can expect a more cohesive CoC under the authority of the President.

To conclude, the multiple overlaps with other Commissioners, especially with the Defence Commissioner in matters of capability development and representation in EU/NATO dialogues constitute a risk of undermining the role of the High Representative. These conflicts and the delineation of the High Representative’s role under the authority of the President of the Commission outline a more presidentialised College of Commissioners — a tendency attributed to Von der Leyen in recent years.

The Commissioner for Defence’s responsibilities according to the Mission Letter

The appointment of Andrius Kubilius as the first-ever Commissioner for Defence and Space is one of the great political innovations for the Von der Leyen II mandate. It highlights defence as a top priority for the next five years and the urgency to boost the European Defence Industry sector. The efforts conducted over the past five years have shown that national efforts, while indispensable, are not enough, as the Member States stated in the 2024 Defence Review. Therefore, the creation of this new commissioner and the responsibilities laid upon him by the PoC reflect the growing involvement of the Commission in the Defence Industry sector.

As the Treaty of the European Union established in Article 17.7, the President-elect adopted a list of the rest of the appointed members to be part of the College of Commissioners (CoC) among the candidates presented by the Member States. She is responsible for assigning responsibilities -portfolios- to the new Members of the Commission or reassigning them at any time, as stated in Articles 248 TFEU and 3 of the Commission’s Rules of Procedure. These provisions constitute the legal basis for determining the new commissioner’s tasks and responsibilities through the mission letters sent by the PoC this past summer.

For Mr Kubilius, the mission in defence is quite clear: “Spend More, Spend Better, Spend European” (Von der Leyen, 2024). He will be in charge of creating and enhancing a new frame for the European Defence Industry through the so-mentioned White Paper on the

Future of European Defence, the creation of a Single Market for Defence or the implementation of both the European Defence Industrial Strategy and Programme (EDIS and EDIP), among other tasks. Experts also expect Mr Kubilius to play an important role in the EU/NATO coordination, particularly in harmonising the defence equipment and proposing Defence Projects of Common European Interest like the European Air Shield and the cyber defence common project.

Furthermore, the big question for the European defence sector is how all these efforts will be financed. Throughout 2025, the EDIP Regulation Proposal will be discussed in the Council and the European Parliament. Financing tools like EDIRPA and ASAP will end in 2025, while the European Defence Fund (EDF) expires with the current Multiannual Financial Framework (MFF). Therefore, EDIP could potentially provide a new financing framework, enhancing the role of the Commission and the Commissioner for Defence.

To conclude, the new defence portfolio signifies the growing importance of the Commission in defence issues, especially those regarding the defence industry and military mobility. Its main responsibilities will focus on the industrial, procurement, and financing aspects of defence, playing a more strategic role alongside the HR/VP. However, Mr Kubilius also faces a big challenge as the first-ever Defence Commissioner, defining the role and setting a standard for future commissioners.

2. Compatibility and overlapping in the new Commission

Overlapping and conflicts in the European Defence Industry Framework

Over the past five years, intergovernmental instruments like PESCO and EDA have been mainly responsible for planning, developing and investing in shared capability projects along the European Defence Fund and other emergency measures such as EDIRPA, ASAP and DJPTF. Despite the notable progress in some key areas, such as the total expenditure and the percentage of investment, there remains room for improvement. According to the CARD, only eighteen per cent of the military equipment purchases are made cooperatively, which is far from the thirty five per cent goal, and to some estimates, eighty per cent of the equipment purchased since 2022 was not European (Borrell, 2024. EDM). While the Member States' total expenditure in 2024 is projected to rise to 1.9% of the EU GDP – reaching PESCO's commitment of spending at least twenty per cent on investment –, many are yet to comply with NATO's two per cent target. As Member States stated in the 2024 Defence Review, "Even though national efforts are indispensable, they are not enough" (Defence Review, 2024, p. 5).

Since the Treaty of the European Union grant competencies in security and defence to the Council in Articles 24 and 26 (EU, 2007), the Commission has only been initially involved in these matters through its market and civilian aspects (Hoeffler & Hoffman, 2024). The Commission's competence in industrial policy lies on the legal basis of Article 173 Treaty on the Functioning of the European Union (TFEU) (EU, 2012). Additionally, projects like military mobility incorporate civilian aspects linked to other commissioners' fields, especially in the field of transport. However, its role and relationship with NATO have been evolving since the last decade, with the Technical Arrangement on Cyber Defence or the successive Joint Declarations on EU-NATO Cooperation. As stated by Hoeffler and Hoffman (2024), the inter-bureaucratic cooperation between the EU and NATO has empowered the European Commission as the most relevant partner on the EU side. This evolution has created the environment for launching the EDIS, the inter-institutional negotiations over the EDIP and the first-ever defence commissioner.

Therefore, although the role of the defence commissioner as the lead for the industrial defence strategy seems clear, the vague delimitation of its competence seeds uncertainty over its alignment not only with the HR/VP but also with other commissioners' portfolios, such as Transport and Industrial Strategy. This risk of overlap or conflict seems bigger in the coordination with NATO. Once the implementation of the EDIP Regulation begins, this risk will extend to the coordination between the intergovernmental instruments and the Commission over the priorities for the European defence industry. Furthermore, the EDIP Regulation could enhance the role of the Commission and downgrade the role of EDA and PESCO in terms of building capabilities, investment and common procurement. As the former HR/VP has stated: "EDA's work will need to be linked with that of the European Commission as it takes a greater role in support of the European defence industry" (Borrell, 2024, p. 5). As Csernatonni (2024) states, the vague scope of responsibilities risks "further ruffling feathers in capitals" and "lead to more institutional infighting over competencies". To ensure smooth cooperation and avoid undermining the role of the HR/VP, the Defence Commissioner should focus on industrial and procurement aspects, while Ms Kallas remains in charge of the strategic and policy-oriented dimensions of security and defence (Adebahr et al., 2024).

As previously mentioned, 2025 will be a key year for the future of European defence with the outcome of the forthcoming year hopefully shedding clarity on the new institutional balance in the sector. The White Paper on the Future of European Defence should set a new approach to defence, identify the joint investment priorities, and provide the first demonstration of the partnership between the High Representative and the Commissioner. Furthermore, Ms Kallas should present her proposal for the new PESCO's Strategic Review in May, revealing what role PESCO will play in the latest European defence landscape. The

drafting and presentation of this proposal will take place simultaneously with the negotiation of the EDIP Regulation, showing the Council's position on the Commission's growing role in the development of defence capabilities and common procurements.

Complementarity through cooperation. The Article 33 TEU as a mechanism for cooperation between supranational and intergovernmental instruments.

The upcoming changes set in the current year could clear up many doubts surrounding the cooperation and division of competencies between the HR/VP and the Defence Commissioner, as well as between the supranational and intergovernmental instruments. Starting with the co-drafting of the White Paper on the Future of European Defence and following with the simultaneous negotiation of the EDIP Regulation and the PESCO's Strategic Review, the inter-institutional negotiations and the cooperation mechanisms and instruments will be key for the future of European defence.

Likewise, the overlaps in competence among commissioners are expected to enhance the role of the President of the Commission as a conflict mediator. This presidential tendency has repeatedly been remarked on over the past five years. However, effective communication and coordination mechanisms would ensure swifter and smoother cooperation, avoiding unnecessary delays and tensions. In this context, coordination units or mechanisms, such as the Commission's Secretariat-General, the Council's General Secretariat, the Commissioner's cabinet, working groups of commissioners created by the President of the Commission (Article 3 Commission's Rules of Procedure) or the inter-institutional informal meetings, are crucial. Nevertheless, the necessity to coordinate the Commission's services and Directorate Generals with intergovernmental instruments like PESCO or the European Defence Agency highlights the importance of incorporating a new mechanism to enhance this cooperation.

The Treaty of the European Union allows the Council to appoint a special mandate for a specific policy issue on a proposal from the HR/VP in its Article 33. This special mandate would work under the exclusive authority of the High Representative. The appointment of an EDA official to become a direct link with the Defence Commissioner cabinet would facilitate the coordination of both cabinets and become a point of reference among the different defence instruments.

Furthermore, PESCO's strategic review opens a great opportunity to reform the enhanced cooperation Secretariat composition and functions, allowing more – and better – institutional cooperation in defence capability building, common procurements and collaborative defence projects funding. This special mandate could act as a Mr or Ms PESCO

(Biscop & Cózar Murillo, 2024) and a direct link between the HR/VP and the defence commissioner in every aspect related to the defence industry, collaborative projects, common procurement and investment expenditure, thereby ensuring coherence among EU instruments. Subsequently, this would help avoid duplications, facilitate compliance with PESCO's more binding commitments and ensure the suitability of the projects accepted. In addition, establishing a PESCO Secretariat where every institution may propose and decide on the project approval would ensure that all funded project will be coherent with the other labelled projects (like EDF or EDIP), thereby optimising the financial efforts the EU needs to do under the new Multiannual Financial Framework (MFF).

Conclusion

Arguably, the appointment of the first-ever Commissioner for Defence seeds some doubts over the compatibility of this new portfolio with the role of the HR/VP and the Council in the CSDP. A vague delimitation of competencies might become a risk of undermining the role of the High Representative and generate frustration amongst the Member States.

Therefore, the role of the Defence Commissioner should be primarily focused on the industrial and procurement aspects of defence, while the HR/VP manages the strategic and policy-oriented dimensions of security and defence. However, to enhance the coordination between the cabinets of the two leading figures in European defence, this paper suggests complementing PESCO's reform with the appointment of a special mandate under the authority of the HR/VP, as Article 33 of the Treaty of the European Union foresees. This new actor would act as a direct link between both cabinets in every aspect related to the defence industry, collaborative projects, common procurement and investment expenditure, and enhance the coherence among EU instruments.

In 2025, challenges like the co-drafting of the White Paper on the Future of European Defence, PESCO's strategic review, and the negotiations over the EDIP Regulation should relieve doubts over the alignment of both roles in European defence policy and the new legal and financial framework for the defence industrial sector. This article has analysed the legal framework for the HR/VP and the Commissioner for Defence, identifying possible conflicts in the coordination between the intergovernmental instruments and the Commission over the priorities for the European defence industry and the coordination with NATO. This paper also proposed appointing a special mandate under Article 33 to act as a direct link between both cabinets and ensure coherence between the different funding instruments for European defence.

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