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WRITTEN BY

FRANCESCO FILIBERTI

EDITED BY

THEODORA POȘTA

SUPERVISED BY

STEPHEN CROWLEY

Introduction

During the outbreak of the full-scale, unprovoked invasion of Ukraine by Russia, the European Heads of State gathered on the 10-11 March 2022 in an extraordinary and informal European Council, which resulted in what came to be known as the Versailles Declaration. This unprecedented meeting underscored the need for greater investment in defence capabilities and innovative technologies. The sections 8-13 of the memorandum are related to “bolstering our defence capabilities”, notably through joint procurement aimed at enhancing readiness and fostering synergies between civilian, defence and space research sectors, as well as among member states (European Council, 2022). The memorandum also reaffirmed the crucial role of NATO, while highlighting the importance of solidarity among EU member states, as enshrined in the mutual defence clause of Article 42(7) of the Treaty on European Union (TEU). In light of this context, and drawing on the insights of the three groundbreaking reports by Draghi, Letta and Niinistö, the European Commission published the White Paper on European Defence — Readiness 2030 in March 2025, introducing the ReArm Europe Plan.

In this analysis, the aim is to address the provisions entailed in the Commission’s plan, seeking to understand how the €800 billion investment proposed by the Commission might foster the defence sector, and how – and if – this could lead to a more integrated European defence policy, as envisaged in Article 42(2) TEU. Furthermore, it examines whether this initiative has created momentum towards the establishment of an European Defence Union. In order to proceed with the assessment and analysis of the ReArm Plan’s content, it is necessary to provide a contextual and legal framework background regarding the EU’s external action competences, as well as to identify the available opportunities and room for maneuver, as well as the legal limitations imposed by the Treaties.

After analysing the legal background and the provisions included in the five-pillar ReArm Plan for the ramp-up in spending for the defence industry, the exploration will shift to the additional policies and tools that the EU can implement in order to facilitate readiness. The overarching goal of the Commission’s White Paper is to provide a comprehensive set of guidelines aimed at enhancing security across Europe. To this end, the second part of this paper will address the further elements needed to support the defence industry and to promote harmonization, preparedness, readiness and continued support to Ukraine.

1. The Legal Background of the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP)

The CFSP and CSDP are described in the Treaty of Lisbon, which entered into force in 2009

and amended the TEU and the Treaty on the Functioning of the European Union (TFEU). The legal basis for the existence of the Common Foreign and Security Policies, as well as the Common Security and Defence Policies, is provided within Title V, which details the general provisions on the Union's external action and specific provisions on the common foreign and security policy, in Articles 21-46 TEU.

From an institutional perspective, as established in Article 24 and 27 TEU, the key decision-making body in this context is the Council, specifically the Foreign Affairs Configuration, presided over by the High Representative of the Union for Foreign Affairs and Security Policy, who also serves as the Director of the European Defence Agency. Decisions taken by the Council on matters related to the Common Foreign and Security Policy CFSP and CSDP – even when they do not concern military operations but rather other aspects of the EU's external action, such as peacekeeping or training missions– are governed by intergovernmental decision-making mechanisms entrenched in the Treaties. These mechanisms require unanimity among Member States in the Council, as stipulated in Articles 31 and 42(4) TEU.

The only exception to unanimity is represented by the so-called 'constructive abstention', enshrined in Article 31(1)(a) TEU. This mechanism allows Member States to abstain from a decision and, consequently not take part in the act created, without blocking the overall policymaking process. Another exception was Denmark's opt-out from the Common Foreign and Security Policy, established in 1992 and enshrined in Protocol No. 26. However, this opt-out was lifted following a 2022 referendum, in which the Danish people voted to join the CFSP and abandon their long exemption.

Another layer of complexity related to the special nature of the acts adopted under the CFSP and CSDP lies in the fact that the first paragraph of Article 31 TEU precludes the institutions from adopting legislative acts in the field of CFSP. Legislative acts, by the definition given in Article 289 TFEU, are those adopted through either the ordinary or special legislative procedure. The main implication of this exclusion– beyond the distinctive policymaking process that requires the High Representative to act as the driving force behind proposals, while also chairing the Council in an unusual dual mandate at both the intergovernmental and supranational levels– is the limited competence of the CJEU to review CFSP matters.

This exception is enshrined in Article 24(1) TEU and Article 275 TFEU, which exclude the Court's jurisdiction over provisions related to Title V of the TEU. The only exceptions where the Court does have jurisdiction are, first, when sanctions are applied (Article 275(2) TFEU), and, second, in cases where there is an alleged breach of Union competences caused by a provision adopted under the CFSP (Article 40 TEU).

Finally, the last article that holds great relevance and which raised many debates in the academic world, as well as among practitioners and institutions, is the Financing Arrangement of CFSP Operations, with reference to the second paragraph of Article 41(2). Here, a clear-cut differentiation between civilian and military expenditure has been drawn. This is yet another indication of the sensitivities and sovereignty concerns of Member States regarding security and defence. Article 41(2) of the Treaty on European Union (TEU) prohibits “expenditure arising from operations having military or defence implications” from being charged to the EU budget. This is a major limit for the Action of the Union in the field of security and defence.

2. The ReArm Plan Readiness 2030 — Buy More, Buy Better, Buy Together, Buy European

Having established the relevant legal framework, this section turns to the core elements and provisions of the ReArm Europe Plan — Readiness 2030. The main objective here is to examine the measures proposed by the Commission to address the acute and growing security threats, particularly through the strengthening of the Union’s deterrent capacity vis-à-vis external actors, with the aim of ensuring readiness and maintaining peace. This analysis will consider the legal, political and budgetary implications of these measures.

The rationale behind the Commission’s plan for defence is to create an industrial base that is both more capable of withstanding shocks and better equipped to meet future defence needs. Its core objective, in this regard, is to build a better ecosystem where technological research, development and innovation are the main pillars of the defence industry, thereby strengthening the Union’s ability to cope with the changes in modern warfare and achieve greater military independence. The plan was also foreseen as a way to enhance the competitiveness of the defence industry and capacity of Member States to rebuild and renovate their defence capacity better and with faster procurement.

Finally, the aim of balancing the urge to buy fast, in order to replenish Member States’ stocks of military equipment, along with the sustainable, long-term aim of better coordination in buying European, is also addressed by the Plan (European Commission, 2025, pp. 2-3). The clear intent is that of closing the capability gaps identified by Member States, with the Support of the European Defence Agency (EDA). Because of space constraints, this analysis will not dive into the specific armaments’ field in which the EU need to strength its defence capabilities, but will rather focus on the policy instruments, budgetary allocation and legal constraints that the EU and the Member States face.

All those goals are subject of the provisions laid down by the Commission in its plan, and the

mean to achieve those is an investment without precedent that amounts to €800 billion. Even though the plan is of an unquestionable significance, it still presents some possible shortcomings. Although it entails diverse financial tools and mechanisms with multiple sources of investments – that will be explored in-depth in the next paragraph – it is overtly reliant on national budgets, which may prove fatal, as not all Member States may be willing, or able, to shoulder the burden of a surge in public debt for defence spending. (Redeker, Guttenberg, 2025, Chapter 1).

The plan is structured around five key pillars. The flagship provision of this broader framework – the first pillar – is the Security Action for Europe (SAFE), which has not been met without criticism. The Council Regulation establishing SAFE grants the Commission the authority to access capital markets and raise €150 billion in loans backed by the EU budget, providing Member States with a back-to-back financial instrument (Council of the European Union, 2025a). This mechanism, by which the Commission bundles demand and borrows as an intermediary from financial institutions and capital markets, is not unprecedented. It closely resembles previous instruments, such as the European Financial Stabilisation Mechanism, the SURE programme, the Recovery and Resilience Facility, and, to some extent, the Ukraine Facility (Markakis, 2025, para. 7).

The possibility for the Commission to accede the financial market and act as a borrowing and lending intermediary, relocating the funds to the Member States through different mechanisms and checks controls, is enshrined in Article 224 of the Regulation on the financial rules applicable to the general budget of the Union. More broadly, it is now widely accepted that the idea according to which the EU cannot borrow to finance expenditure, as a matter of primary law, has been abandoned. The development of the EU's off-budget expenditure capacity – traced back to the bond issuance of the 1970s, to mitigate the adverse impact of the oil crisis – has confirmed that EU-level borrowing is both legally permissible and politically viable, when responding to exceptional circumstances (Spielberger et al, 2024, Chapters II and III).

Through the possibility of joint procurement financed by EU bonds, the SAFE instrument seeks to enhance interoperability, reduce costs and strengthen strategic coordination throughout the EU. Countries such as Ukraine, EFTA/EEA members, EU accession candidates and Security and Defence Partnership states will also have the opportunity to join joint procurement efforts, promoting greater integration. This mechanism, even though it appears to be an unprecedented way to revitalise the Commission's role in ensuring security and defence preparedness, has not been welcomed – specifically by the European Parliament – with enthusiasm. In fact, in June 2025, the EP Committee on Legal Affairs voted to take legal action against the Commission, claiming that the legal basis used for the

adoption of the regulation, Article 122 TFEU, which sidelines the European Parliament by allowing the Council to legislate merely by informing it, is not adequate, as it is intended for emergency spending and temporary financial measures. This may also pose as criticism, when considered alongside the name 'Readiness 2030', which suggests a more structural and long-term spending plan (Famà, 2025, pp. 3-4).

The second pillar of the ReArm Europe plan is represented by the encouragement given to Member States to choose to enhance flexibility and accommodate national debt for the sake of spending in defence. This proposal, corroborated with the Council communication of 30 April 2025 envisage an ad-hoc mechanism which has already been utilised during the Covid-19 crisis. (European Union Council, 2025b).

This mechanism consists in the activation of the escape clause, that would allow countries to deviate for a term of 4 years– but only in regard to defence-related expenditure, and for a maximum of 1.5 per cent of GDP in terms of flexibility – from the Stability and Growth Pact, which poses limitations to the level of deficit countries can afford to sink into, in order to attain sound public finances within the Union (European Commission, 2025g, p. 16). As of July 2025, fifteen Member States have already activated the national escape clause, tapping into the chance to have additional budgetary space to bolster defence spending, without breaching the EU fiscal norms established in accordance with Article 121 and 126 TFEU and without incurring into excessive deficit procedure (Council of the European Union, 2025c).

Another provision of the Readiness 2030 plan that has sparked many debates is the flexibility of EU financial instruments that allow greater investment in the defence industry. The third pillar, together with the commitment of the Commission to explore new financial mechanisms that seek to support Member States in defence spending – like establishing ad-hoc fund for the 2028-2035 Multiannual Financial Framework (MFF) – affects the European Union's budget (European Commission, 2025g, pp. 16-17). This has several implications, both on the legal and political side. For the legal ones, as explained in the introduction, the EU has constraints in using the budget for military operations, as dictated by Article 41 (2) TFEU. On the political level, redirecting part of the cohesion funds to defence spending by using the mid-term review of cohesion policies that allows the allocation of funds from their current programmes towards emerging priorities, including strengthening defence and security capabilities, will further deteriorate the status quo of this fund, that was originally thought as a tool meant to correct imbalances between regions and create a more cohesive union, but which, lately, is getting used more and more as an emergency spending fund.

Moreover, allocating part of the budget for defence would come with the cost of sacrificing spending in other sectors. Due to the legal constraints of the 7 years' budget, regulated on

the legal basis of Article 312 TFEU, the Commission must convince capitals that channelling the money through the bloc's budget towards its expenditure in the defence industry will bring added value. The procedure for the adoption of the regulation for the MFF foresees that the Council will act unanimously after obtaining the consent of the European Parliament, through the special legislative procedure, which shall be awarded by a majority of its component members.

The fourth and fifth pillar of the plan seeks to mobilise the private sector to contribute to the surge of spending for the innovation and rebuilding of the defence industry. The European Investment Bank (EIB) has a paramount role in creating the best circumstances to ramp up the private spending and investment in defence. In this regard, the ReArm plan has foreseen a doubled investment for the EIB Group's Security and Defence Action Plan, while the Board of Governors announced in June 2025 the intention to increase up to 3.5 % the total financing for Security and Defence, with also overseeing an increase of a once-in-a-generation kind of the total financing to €100 billion (European Investment Bank, 2025, para. 4).

For consistent and sustainable investment in the defence sector, boosting public spending is indispensable — but not sufficient. The EIB alone cannot serve as the only EU tool to mobilise greater private investment. To enhance the participation of small and medium-sized enterprises (SMEs) and mid-sized ones, the Commission published guidelines in March 2025, which were aimed at directing savings and the Capital Markets Union towards the defence sector. However, when read through the lens of the Draghi Report— which advocates for completing the Capital Markets Union and the Banking Union, as well as issuing a common safe asset to foster stability, predictability, and the much-acclaimed surge in private investment — the Commission's actions appear unsatisfactory. They seem to amount to a minimal effort to boost private investment on a case-by-case basis, rather than laying out a coherent strategy to remove the structural barriers that continue to hinder private capital mobilisation (Draghi, 2025, chapter 5).

3. Beyond Spending: Strategic Objectives and Complementary Measures of the Commission's Readiness 2030 Plan

The ReArm Plan illustrated in the previous chapter has, as aim, the boosting of readiness in the defence sphere, guaranteeing a surge in European defence spending accessible and sustainable for all the Member States. The reason for the need of this increase in public and private investment for security is due to the increasing threats stemming from the full-scale invasion of Ukraine, the crises in the Middle East and the progressive retreat of the United States in providing security guarantees.

However, to properly face those incumbent circumstances and the destabilisation of the global order, keep Europe safe and at peace while sticking to its values and priorities of competitiveness and prosperity, the surge in spending provided by the five pillars of the ReArm plan is not enough. To simply permit the EU to be ready to respond and act properly in terms of investment and increase in capabilities is not sufficient. For this reason, the White Paper of the Commission for European Defence also suggests removing regulatory hurdles and address challenges that set constraints to the efficiency and readiness of the EU defence sector. For this reason, the Commission has proposed the Defence Readiness Omnibus plan, which introduces measures that will enable the EU to adjust its peace-time regulatory framework to a period of major crisis that will need rapid capability development and deployment. The package includes the Commission communication (COM 820 final, 2025), three legislative acts (COM 821 final, 2025; COM 822 final, 2025; COM 823 final, 2025), and the amendment of four delegated regulations.

The rationale of this package of legislative and non-legislative proposals is cutting red tape and removing hurdles: streamlining EU defence programmes to shorten delivery times, simplify management and ease co-funding procedures. Fast-tracking construction and environmental permits for defence industrial projects should be treated as a public interest level of a priority. It's also essential to ensure timely access to critical materials, personnel and other inputs across the supply chain, particularly when no substitutes are available. Removing barriers to financing, including those linked to ESG (Environment, Social, Governance) investment criteria, is equally important. Additionally, the secure and efficient exchange of confidential and sensitive information must be facilitated, while promoting mutual recognition and cross-certification of defence products among Member States (European Commission, 2025g, p.9).

Other aspects covered in the Commission's White Paper, deemed crucial to set-up the investment and booster the defence industrial complex capable of increasing European security and readiness through better deployment and preparedness of the EU, is the military mobility. In order to achieve this, the Commission launched a call for evidence and a targeted stakeholder consultation from mid-June to the end of August 2025. This initiative involves Member States, NATO, the EDA, PESCO, industry associations in the fields of defence, transport and energy, the civil society and research organisations. Its goal is to gather input for a comprehensive package to address military mobility, including jointed communication, a proposed regulation and revisions to relevant transport legislation, while leveraging other EU policy instruments.

The rationale behind these policies is the increasing of compatibility and improvement of the infrastructure, in order to ensure the swift movement of troops and equipment across the

EU in the event of war or even hybrid warfare threats. To achieve this objective, the legislator must address two key issues. First, as also outlined in the Defence Readiness Omnibus, all impediments must be removed — such as red tape, diplomatic clearances for military transport and non-harmonised administrative rules and procedures. Second, the inadequacy of existing infrastructure must be addressed. For the physical movement of equipment and, above all, troops, critical infrastructure must be upgraded to enable rapid mobilisation; without this, no credible deterrent can exist (European Commission, 2025g, p. 8).

Finally, as outlined in the introduction, the acute and growing threat that the EU is facing is largely driven by Russia's full-scale and unprovoked invasion of Ukraine. Ukraine stands on the frontline in the defence of democratic values against authoritarianism; thus, Ukrainian peace is European peace. Ukraine's capacity to prevail on the battlefield and to establish effective deterrence against future aggression is a matter of strategic interest for the Union. For this reason, the Commission's White Paper includes several recommendations and measures to strengthen Ukraine's defence and promote greater integration between the Ukrainian and EU defence industrial sectors. These include encouraging Ukraine's participation in joint procurement initiatives financed through SAFE, enhancing the EU Military Assistance mission in support of Ukraine (EUMAM) and expanding Ukraine's involvement in the activities and initiatives of the EDA and the Permanent Structured Cooperation (European Commission, 2025g, pp.10-12).

As of July 2025, the state of play regarding the implementation of the Commission's plan seems on its way to be fully delivered. One of the key provisions of the Commission's White Paper, the SAFE instrument, was adopted by the Council on 27 May 2025 (Council of the European Union, 2025a). The EIB has raised its ceiling for defence sector financing to €3.5 billion. The new MFF has established a dedicated budget line of €130 billion for defence and security under the Competitiveness Fund, allowing for greater flexibility (European Commission, 2025e, p. 30). More than half of the Member States have been granted activation of the escape clause under the Stability and Growth Pact (SGP). The Commission has already released its proposal for the Defence Readiness Omnibus, which will now proceed through the ordinary legislative procedure (European Commission, 2025h). Meanwhile, provisions on military mobility are still under exploration, with stakeholder consultations ongoing, to allow the Commission to propose a full legislative package by the end of 2025.

Conclusion

From Readiness 2030 to a European Defence Union — Progress and Legal Challenges

Many of the actions outlined in the Commission's White Paper are already being implemented, while others are in progress. Nevertheless, the path toward the creation of a European Defence Union remains long and challenging. The shortcomings remain considerable and stem from two main factors. First, Member States appear reluctant, at times, to adopt an unified approach, often prioritising national industrial interests over collective integration, resulting in market fragmentation and therefore loss in competitiveness and efficiency (Wolff et al. 2025, pp. 3-4). Second, structural and legal limitations within the EU's framework on CFSP and CSDP continue to pose significant obstacles. In this regard, the two provisions that prevent the EU from stepping up and creating an ad-hoc Defence Union are Article 42 (1) TEU, which prevent expenditure arising from military action to be sanctioned with the EU budget, and Article 346 (1b) TFEU, which gives Member States, by invoking national security issues, the freedom to exclude their defence industry from the Union market, resulting in extensive use, by Member States, of this clause, with a result of market fragmentation (Scazzieri, 2025, p. 7).

In this regard, the intergovernmental approach dictated by the Treaties remains the main obstacle preventing the EU from advancing in the integration of defence policies. The Union remains handcuffed by the unanimity required by the Council, which often leads to deadlocks, frequently caused by reluctant countries, as seen in the case of the year-long blockage of the European Peace Facility (EPF) and the delayed adoption of the 17th and 18th package of sanctions against Russia. Additionally, the need to resort to off-budget mechanisms stems from the limitations imposed by the financing arrangements for CFSP operations, as enshrined in Article 41(2) TEU.

While significant progress has been made in investment, harmonisation and the replenishment of EU defence capabilities, numerous obstacles remain — both legislative and political. Undoubtedly, the war in Ukraine has reignited momentum for what should become the European Defence Union, an entity already envisaged in Article 42 of the Lisbon Treaty. Now, with the new Multiannual Financial Framework (MFF) and the measures outlined in the Commission's White Paper Readiness 2030 — ReArm Plan, there is a renewed opportunity to consolidate integration and pave the way towards a truly common Defence Union.

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