



2019/2204(INI)

11.12.2020

OPINION

of the Committee on Foreign Affairs

for the Committee on the Internal Market and Consumer Protection

on the implementation of Directive 2009/81/EC, concerning procurement in the fields of defence and security, and of Directive 2009/43/EC, concerning the transfer of defence-related products
(2019/2204(INI))

Rapporteur for opinion: Sven Mikser

PA_NonLeg

SUGGESTIONS

The Committee on Foreign Affairs calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Reiterates its support for the ambitions of the Defence Package directives, which were established in the context of the 2008 financial and economic crisis, namely to promote further integration of the EU defence supply chain and increase mutual trust between Member States and transparency, equal treatment and the overall competitiveness of Europe's defence industry; considers that this would address current shortfalls in defence operational capability and ensure that the EU could rely on sufficient and strategic capabilities, increase interoperability, rationalise defence expenditures and make better use of taxpayers' money by reducing duplication, fragmentation and industrial overcapacities and boosting the competitiveness of a strong, innovative and resilient European Defence Technological and Industrial Base (EDTIB) and a well-functioning, reliable, open, competitive, modern, robust and efficient European defence equipment market (EDEM); expresses its firm belief that the Member States must improve their defence capabilities and capacities and sees the effective implementation of the directives as a step towards the EU's ambition of strategic autonomy and a European Defence Union, while fully respecting its alliances and partners, and as serving to strengthen its multilateral action and as a necessary element of the development of the European defence industry and of its security and capacity to defend itself against current and future threats; underlines that the directives could make European defence policy more coherent, provided that Member States have a common vision and shared strategic outlook on European defence initiatives;
2. Highlights the progress emphasised in the Commission's evaluation reports from 2016 and the study by the European Parliament Research Service (EPRS) of 19 October 2020, which show that both directives have helped to open up the internal market for defence and move toward the completion of an internal market for defence goods and services, but that much more progress is needed; calls for more up-to-date evaluations to be conducted as the lack of reliable, precise and complete data on the use of both directives prevent decision-makers and the relevant stakeholders from fully assessing their implementation and engaging in a meaningful process to generate an effective, robust and modern EDEM, and hinder transparency and scrutiny; urges the Member States to generate high-quality data on the implementation of both directives and to consider the creation of dedicated statistical classification codes in order to measure the evolution of the structure of the European defence industry and assess the Europeanisation of defence value chains; calls on the Member States to fully implement and apply both directives and calls on the Commission to ensure that its interpretative guidelines are implemented and enforced consistently and in full in order to avoid their uneven application across the Member States, including by making use of infringement procedures; expresses the hope that the creation of a Commission Directorate-General for Defence Industry and Space (DG DEFIS), whose remit brings together the monitoring and management of the two directives, will also lead to stronger linkages between the two directives and, eventually, truly integrate the defence industry into the internal market;

3. Regrets the continued fragmentation of the European defence market, which is still leading to unnecessary duplications, to the multiplication of ineffective projects and ineffectual defence spending by the Member States; underlines that in view of the economic recession expected to ensue from the COVID-19 pandemic, which is likely to put pressure on defence budgets, deeper integration of the defence industry is required at EU level; believes that an effective implementation of the directives would also further enhance the effectiveness of defence initiatives launched over the past few years, notably the Coordinated Annual Review on Defence (CARD), the Permanent Structured Cooperation (PESCO) and the European Defence Fund (EDF); underlines and regrets, however, the substantial cuts in funding to the EDF, the European Peace Facility and military mobility;
4. Underlines concerns over the possible renationalisation of supply chains, which would run counter to the directives' objectives; calls for renewed efforts to tackle persistent technological and innovation gaps and lags in the EDTIB in order to reduce Europe's growing dependence on defence imports; stresses that in order to build a reliable and comprehensive European defence equipment market and an efficient defence sector, the Commission needs to present a comprehensive EU-wide security of supply regime strategy;
5. Recognises the relevance of EU-UK cooperation in the defence industry and the importance of existing cooperation between individual Member States and the United Kingdom;

Directive 2009/81/EC on defence and sensitive security procurement

6. Highlights that an overwhelming proportion of contracts are still awarded nationally; regrets the persistent lack of transparency and significant degree of opacity of some acquisition practices; deplores the widespread use of exemptions and the persistence of offset requirements, which limit fair competition in the European defence equipment market; calls for a reduction in the use of exemptions and offset requirements in defence acquisitions, thereby enabling the EDTIB to develop faster and better as one of the key strategic aims of both directives; calls for more systematic and comprehensive reporting of consistent, accurate and comparable data by Member States concerning their use of exemptions in order to improve scrutiny and the implementation of the relevant Commission guidelines; calls on the Commission to step up its efforts and take bold and proactive measures to prevent the misuse of exceptions and to enforce the directive, in particular by ensuring the effectiveness of infringement procedures;
7. Notes the disparities between the Member States in the rates of publication of contract notices; points out that these disparities could cause disruption to the internal market and that the lack of reciprocity could disincentivise Member States with a higher degree of implementation;
8. Points to the need to ensure that Member States strictly respect the conditions of applications of exemptions and, in particular, to strictly limit the potentially abusive use of Article 346 of the TFEU, not least given the new reality of multinational supply chains and multinational collaborative defence, in order to increase transparency and equality; calls on the Member States to strictly follow the Commission's interpretative

guidance as to the conditions under which Article 346 can be invoked; calls for a clear definition of the types and characteristics of products that may be subject to exemptions and for scrutiny and a careful assessment of the necessity and proportionality of exemptions invoked by Member States on the basis of Article 346, especially when their use may harm the competitiveness of the EDTIB;

9. Reiterates experts' warnings that if Member States continue their current practices, whereby on average less than 20 % of defence procurement results in collaborative projects, the European defence industry and its technological innovation capacity will be doomed to decline;
10. Welcomes the provisions of the directive that aim to foster cooperative procurement in the field of defence and calls on the Member States to make use of all the cooperation possibilities offered by the directive in a genuine spirit of solidarity, notably under the European Defence Industrial Development Programme (EDIDP) and the future EDF; recommends that major defence projects currently run on a bilateral or multinational basis by Member States outside the framework of EU defence initiatives should be integrated therein in order to allow the meaningful participation of those Member States willing to take part in the projects, ensure that actions are coherent, avoid duplications to make better use of taxpayers' money, and consistently deliver added value to the entire Union; calls for enhanced cooperation through common defence-related research and development (R&D) projects and acquisitions to support the development of the EDTIB;
11. Notes that the participation of SMEs in the field of defence procurement remains low; encourages Member States to address the causes of this, to strive to lower entry barriers to and reduce complexities for SMEs, and to systematically follow the Commission's 2018 recommendation on cross-border market access for sub-suppliers and SMEs, notably as regards translating tenders, announcing large procurement programmes in advance, and dividing them into smaller lots, while taking into account the cost and timeline of programmes; calls on the Member States to ensure up-to-date and advertised mapping of the technological capabilities of SMEs, particularly those working on emerging and disruptive technologies, so as to enable prime contractors in other Member States to identify SMEs with the requisite competences for launching a joint project and to enable and enhance fair and open competition and greater engagement with SMEs, while supporting increased transparency;

Directive 2009/43/EC on intra-EU transfers of defence-related products

12. Calls on the Member States to show full political will in ensuring the effective and harmonised implementation of the provisions of Directive 2009/43/EC and in increasing intra-EU defence acquisition and R&D cooperation; calls on the Member States to make use of common defence R&D and acquisitions in order to boost interoperability between their militaries; calls on the Commission to assist Member States with the implementation of the directive and to continue dialogue with national authorities on this matter;
13. Calls on the Commission to promote the involvement of SMEs in cross-border projects and to raise awareness of the tools and benefits of the directive, with particular regard to

SMEs;

14. Underlines that a more coherent interpretation and consistent implementation of the EU Common Position on Arms Exports is needed in order to limit the fragmentation of the EU's internal defence market and reinforce the consistency of its foreign policy; underlines that in its conclusions of 16 September 2019, the Council noted that the strengthening of a European EDTIB should be accompanied by closer cooperation and convergence in the field of export control of military technology and equipment; calls for action to address any loopholes, inconsistencies or contradictions between the ICT Directive, the Common Position and the Dual-Use Regulation; insists on the importance of giving full consideration to Article 4(8) of Directive 2009/43/EC; stresses that prior authorisation before re-exporting products and components would no longer be required if the Common Position is interpreted and implemented uniformly;
15. Recommends that an appropriate analysis be carried out into the impact of both directives on EU-UK defence cooperation in the post-Brexit scenario; calls for specific provisions on defence industry cooperation between the EU and the UK to be drawn up in accordance with the specificities of any general agreement that may be reached between the parties;
16. Deplores the limited use of general transfer licences (GTLs); calls on the Member States to increase transparency by implementing more thoroughly the Commission's recommendations on aligning the scope of and conditions for the products to be subject to the use of GTLs; calls on the Commission to assess the implementation of its recommendations and to draw up a report thereon; underlines the need for Member States to provide translations of national transfer licencing regulations; calls on the Commission to fully support and assist Member States in developing harmonised global and individual transfer licences for EDIDP and EDF projects;
17. Stresses the importance of ensuring the accessibility and usability of the online Register of the Certified Defence-related Enterprises (CERTIDER), of making detailed data on intra-EU arms transfers systematically available, and of reflecting on the need to update the current statistical framework so as to take better account of defence and armament activities, in order to provide for meaningful scrutiny and to properly assess the implementation of Directive 2009/43/EC; calls on the Member States to report to the Commission every year on the use of GTLs and individual licences; calls on the Commission to keep the section of CERTIDER on GTLs up to date; calls on the Member States, to that end, to systematically notify the Commission of any changes made to their GTLs.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	10.12.2020
Result of final vote	+: 51 -: 10 0: 7
Members present for the final vote	Alviina Alametsä, Alexander Alexandrov Yordanov, Maria Arena, Petras Auštrevičius, Traian Băsescu, Lars Patrick Berg, Anna Bonfrisco, Reinhard Bütikofer, Fabio Massimo Castaldo, Susanna Ceccardi, Włodzimierz Cimoszewicz, Katalin Cseh, Tanja Fajon, Anna Fotyga, Michael Gahler, Kinga Gál, Sunčana Glavak, Raphaël Glucksmann, Klemen Grošelj, Bernard Guetta, Márton Gyöngyösi, Karol Karski, Dietmar Köster, Andrius Kubilius, Ilhan Kyuchyuk, David Lega, Miriam Lexmann, Nathalie Loiseau, Antonio López-Istúriz White, Jaak Madison, Claudiu Manda, Lukas Mandl, Thierry Mariani, David McAllister, Vangelis Meimarakis, Sven Mikser, Francisco José Millán Mon, Gheorghe-Vlad Nistor, Urmas Paet, Demetris Papadakis, Kostas Papadakis, Tonino Picula, Manu Pineda, Kati Piri, Giuliano Pisapia, Jérôme Rivière, María Soraya Rodríguez Ramos, Nacho Sánchez Amor, Isabel Santos, Jacek Saryusz-Wolski, Andreas Schieder, Radosław Sikorski, Jordi Solé, Sergei Stanishev, Tineke Strik, Hermann Tertsch, Hilde Vautmans, Harald Vilimsky, Idoia Villanueva Ruiz, Thomas Waitz, Witold Jan Waszczykowski, Charlie Weimers, Isabel Wiseler-Lima, Salima Yenbou, Željana Zovko
Substitutes present for the final vote	Andor Deli, Markéta Gregorová, Bart Groothuis

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

51	+
EPP	Traian Băsescu, Michael Gahler, Kinga Gál, Sunčana Glavak, Andrius Kubilius, David Lega, Miriam Lexmann, Antonio López-Istúriz White, David McAllister, Lukas Mandl, Vangelis Meimarakis, Francisco José Millán Mon, Gheorghe-Vlad Nistor, Radosław Sikorski, Isabel Wiseler-Lima, Alexander Alexandrov Yordanov, Željana Zovko, Andor Deli
S&D	Maria Arena, Włodzimierz Cimoszewicz, Tanja Fajon, Raphaël Glucksmann, Claudiu Manda, Sven Mikser, Demetris Papadakis, Tonino Picula, Kati Piri, Giuliano Pisapia, Nacho Sánchez Amor, Isabel Santos, Andreas Schieder, Sergei Stanishev
RENEW	Petras Auštrevičius, Katalin Cseh, Klemen Grošelj, Bernard Guetta, Ilhan Kyuchyuk, Nathalie Loiseau, Urmas Paet, María Soraya Rodríguez Ramos, Hilde Vautmans, Bart Groothuis
VERTS	Alviina Alametsä, Reinhard Bütikofer, Jordi Solé, Tineke Strik, Thomas Waitz, Salima Yenbou, Markéta Gregorová
NI	Fabio Massimo Castaldo, Márton Gyöngyösi

10	-
S&D	Dietmar Köster
ID	Lars Patrick Berg, Jaak Madison, Thierry Mariani, Jérôme Rivière, Harald Vilimsky
ECR	Charlie Weimers
GUE	Manu Pineda, Idoia Villanueva Ruiz
NI	Kostas Papadakis

7	0
ID	Anna Bonfrisco, Susanna Ceccardi
ECR	Anna Fotyga, Karol Karski, Jacek Saryusz-Wolski, Hermann Tertsch, Witold Jan Waszczykowski

Key to symbols:

+ : in favour

- : against

0 : abstention