

**Question for written answer E-004095/2025/rev.1
to the Commission**

Rule 144

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Subject: Legal certainty of the Security Action for Europe instrument following a referral to the Court of Justice of the European Union

On 20 August 2025, Parliament announced that it was filing a case with the Court of Justice of the European Union (CJEU) against the Council. The action challenges the use of Article 122 of the Treaty on the Functioning of the European Union (TFEU) as the legal basis for the Security Action for Europe (SAFE) instrument¹, which was adopted on 27 May 2025. Using this legal basis deprives Parliament of its right to scrutinise sensitive matters.

While the SAFE instrument, as part of the ReArm EU programme, is intended to rapidly strengthen the European defence technological and industrial base (EDTIB), the Commission's decision to bypass democratic oversight has called into question the legal certainty of the instrument, disregarding the institutional balance.

On 9 September 2025, the Commission published the provisional allocation among Member States of the EUR 150 billion in loans provided under this instrument with the aim of enhancing defence preparedness among Member States.

In this context:

1. How does the CJEU referral affect projects financed by the SAFE instrument, and what steps is the Commission taking to secure them?
2. To restore transparent cooperation with Parliament and enable proper oversight, will the Commission provide full details of SAFE funding commitments? If so, according to what schedule?
3. Does the Commission intend to invoke Article 122 TFEU again for other components of the ReArm Europe plan?

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¹ OJ C 326, 26.10.2012, ELI: http://data.europa.eu/eli/treaty/tfeu_2012/art_122/oj.