

(English version)

**Priority question for written answer P-002088/25
to the Commission
Nikolaos Anadiotis (NI)
(23 May 2025)**

Subject: SAFE: the European defence instrument's wrongful use of Article 122 TFEU as a legal base and circumvention of the European Parliament and Member States

In its proposal to the Council, COM(2025) 122 final, the European Commission proposed the SAFE mechanism to boost investment in the European defence industry. First of all, according to this proposal, the participation of non-EU countries that threaten or fail to recognise Member States is not excluded in the funding of investment projects. What is more, invoking Article 122 TFEU on procedure is contrary to the principles of institutional balance:

- It circumvents, on the one hand, the Council's basic rule of unanimity in the voting of common security and defence policy matters, and, on the other hand, the European Parliament as co-legislator with the power of scrutiny (Articles 13, 14 and 36 TEU), while depriving the Member States of their right of veto in foreign policy matters.
- This article concerns economic crises or natural disasters and therefore cannot replace the specific legal bases of Title V TEU or Regulation (EU) 2021/697 on the European Defence Fund.

In view of the above, can the Commission answer the following:

1. What is the legal basis for the application of Article 122 TFEU in military/defence matters?
2. How is the role of Parliament guaranteed in accordance with Articles 13, 14 and 36 TEU?
3. Does it intend to review the procedure in order ensure due compliance?

Submitted: 23.5.2025

**Answer given by Mr Kubilius on behalf of the European Commission
(22 July 2025)**

The stark deterioration of the security context in 2025 requires Member States to massively increase their expenditures in defence industrial capabilities.

In this context, the Security Action for Europe (SAFE) Regulation⁽¹⁾ aims to provide temporary financial assistance to Member States seriously threatened with severe difficulties by exceptional occurrences beyond their control. This objective is fully in line with the scope of Article 122 of the Treaty on the Functioning of the European Union (TFEU).

The requirements set out in Article 122 TFEU in term of competence and procedure for the adoption of acts based on that legal basis have been fully respected.

SAFE does not undermine the role of the European Parliament in Articles 12, 13 and 36 of the Treaty on European Union. The Commission recalls that it made extensive use of legal bases which involve the ordinary legislative procedure for all legislative proposals adopted in relation with the defence industrial policy since the beginning of Russia's unjustified aggression of Ukraine and even before.

This demonstrates the Commission's commitment to ensuring both the respect of the competences of the different institutions, as enshrined in the Treaties, and the principle of sincere cooperation.

In addition, the Commission has fully respected its commitment towards the European Parliament, as set out in the Joint Declaration of 22 December 2020⁽²⁾, by replying to the questions of its Honourable Members in two meetings held on 8 April and 19 May 2025.

The Commission stands ready to regularly update the European Parliament on the implementation of SAFE and to continue providing answers to its questions.

⁽¹⁾ OJ L, 2025/1106, 28.5.2025, ELI: <http://data.europa.eu/eli/reg/2025/1106/oj>.

⁽²⁾ OJ C 444I, 22.12.2020, p. 5-5, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=oj:JOC_2020_444_I_0005.