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COVER NOTE

From: European Parliament
To: Presidency
Subject: Letter from the President of the European Parliament on the SAFE
Regulation.

Delegations will find enclosed a letter from the President of the European Parliament on the SAFE
Regulation.

The President

D 200558 05.05.2025

Mr Adam Szlapka
President-in-office
Council of the European Union
Rue de la Loi 175
B-1048 Brussels

Dear President,

In accordance with Rule 138(2) of Parliament's Rules of Procedure, the Committee on Legal Affairs (JURI) has assessed the legal basis of the Commission proposal for a Council Regulation establishing the Security Action for Europe (SAFE) through the reinforcement of European defence industry Instrument [COM(2025/0122)].

At its meeting of 23 April 2025, the Committee unanimously decided that Article 122 of the Treaty on the Functioning of the European Union (TFEU) is not the appropriate legal basis for the proposed Regulation.

Amongst its considerations, the JURI Committee pointed out the absence of the required proper justification by the Commission for its choice of Article 122 TFEU as legal basis. It also noted the Commission's failure to explain why the proposed Regulation is based on both paragraphs of Article 122 despite the fact that recourse to each paragraph is subject to different conditions. The Committee also considered that the Union's competence to act under a legal basis other than Article 122 TFEU does exist.

The European Parliament is not questioning the merits of this proposal for a Regulation. It is however deeply concerned that the legislative act in question is proposed to be adopted without the proper legal basis and legislative procedure, putting at risk democratic legitimacy by undermining Parliament's legislative and scrutiny functions. Moreover, Parliament considers that the use of Article 122 TFEU in this particular case is not in line with the principle of sincere cooperation enshrined in the Treaty on European Union.

Parliament stands ready to legislate swiftly when so required. Its Rules of Procedure foresee acceleration of legislative procedures, as well as urgent procedures if that is warranted.

I have therefore asked the President of the Commission to reconsider the choice of legal basis for this proposal, to ensure that both co-legislators participate in the shaping of the most appropriate measures that will enable the European Union and its Member States to address the unprecedented geopolitical challenges we are facing.

If the Council adopts this Regulation using Article 122 TFEU as the legal basis, Parliament will examine the act pursuant to Rule 155 of its Rules of Procedure (proceedings before the Court of Justice of the European Union).

A similar letter has been sent to the President of the Commission.

Yours sincerely,



Roberta Metsola

