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**GUNS, BUTTER AND HUMAN RIGHTS**  
A multidimensional analysis of the EU arms industry through the lens of  
human rights

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## **Abstract**

*The objective of this work is twofold. Firstly, I aim to identify the normative and enforcement gaps in the international arms control framework that allow arms exports from EU Member States to recipients involved in serious human rights and humanitarian law violations. Secondly, in light of the evidence of a drift towards militarisation in the EU, I seek to elucidate the drivers behind EU defense industry policies and the role of human rights within them. To these ends, I examine the EU arms industry from three dimensions: regulatory, economic, and political. I begin with a critical analysis of international disarmament treaties and EU arms export rules (Chapter 1). Then, I analyse the macroeconomic impact of this industry and the influences exerted by major arms companies, scrutinising their control structures, main markets, and human rights policies (Chapter 2). Finally, I conceptualise the political decisions underlying EU militarisation in the current context of complex multipolarity and nationalistic tensions, examining these decisions and the narratives that support them, along with diverse critical approaches (Chapter 3). By using the lens of human rights, I aim to find a pragmatic yet principled approach between the prevalent realpolitik position —increasing military expenditure and building a strong EU arms industry as the only way to peace and security—, and the now utopian full disarmament agenda.*

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## 1. Introduction

Armed conflicts and political regimes involved in serious human rights violations cannot sustain themselves without access to weapons.

The European Union (EU) traces its roots back to the European Coal and Steel Community, established in 1951 to integrate Europe's coal and steel industries into a common market, making war among its founding members "not only unthinkable but materially impossible" (Schuman, R., 1950/2015). Nowadays, the Treaty of the European Union (TEU) unambiguously states that the EU's aim is "to promote peace, its values and the well-being of its peoples" (TEU, Article 3.1), and that it is "founded on the values of human dignity, freedom, democracy, equality, the rule of law and respect for human rights" (TEU, Article 2).

Against the backdrop of these affirmations, this Master's thesis aims to identify the normative and enforcement gaps that allow arms manufactured and/or marketed by EU-based corporations to be used in armed conflicts and contribute to grave human rights violations. Additionally, it seeks to understand what shapes the EU defence and security policies, and the role of human rights therein.

Eight EU countries are placed among the top 25 largest arms exporters in the period between 2019 and 2023, representing around 26.6% of the total global exports. Notably, France (2<sup>nd</sup>), Germany (5<sup>th</sup>), Italy (6<sup>th</sup>) and Spain (8<sup>th</sup>) rank in the top 10 (Stockholm International Peace Research Institute (SIPRI), 2024). Most of these exports were destined for states outside the EU, and in many cases, these recipient countries were involved in armed conflicts and/or implicated in serious human rights abuses. The table below displays the top three recipients of arms exports from Member States, along with the percentage share these recipients represent in each exporter's total arms exports:

**Table 1** - Top 3 recipients of arms exports per Member States (2019-2023)

Exporter	Main recipients and their share of exporter's total exports in % (2019–2023)		
	1st	2nd	3rd
France	India 29	Qatar 17	Egypt 6.4
Germany	Egypt 20	Ukraine 12	Israel 12
Italy	Qatar 27	Egypt 21	Kuwait 13

Spain	Saudi Arabia 21	Saudi Arabia 21	Türkiye 18
Netherlands	USA 28	Mexico 12	Pakistan 8.6
Sweden	Brazil 22	USA 20	Pakistan 20
Poland	Ukraine 96	Sweden 2.1	India 0.6
Belgium	Saudi Arabia 38	Canada 25	Pakistan 22

Source: SIPRI Arms Transfers Database (2024, 31 March)

Ongoing and threatened conflicts in Eastern Europe, the Middle East and Africa underscore the necessity of conducting the assessment of the proposed thesis and rethinking the EU arms industry from a human rights perspective. Specifically, Russia's war on Ukraine, aggravated after the full-scale attack launched from 24 February 2022, has placed the arms industry at the centre of the political debate in the EU. This situation reveals that the old *guns versus butter* dilemma persists and cannot be resolved with simplistic approaches, especially when viewed from the standpoint of a polycephalous and complex actor such as the EU.

In this thesis, I observe and analyse the EU arms industry from three distinct yet closely interrelated dimensions.

In the first chapter, I examine the **regulatory dimension**. I conduct a critical analysis of the existing international and EU regulatory framework for arms trading, aiming to identify the potential normative and enforcement gaps that allow the trade of arms to destinations where they may be used for human rights violations.

The chapter commences with an overview of the main international treaties addressing the prohibition and/or restriction of arms, and examining the different approaches taken by Member States toward these treaties. I identify two distinct categories in disarmament treaties. Firstly, treaties restricting weapons of mass destruction (WMD) (mainly, chemical, bacteriological and nuclear weapons), which usually enjoy widespread agreement among nations —with the notable exception of the Treaty on the Prohibition of Nuclear Weapons (TPNW)—. Secondly, treaties dealing with conventional weapons, among which I focus on the 2013 Arms Trade Treaty (ATT).

In addition, I analyse the EU regulatory framework on arms trade, with particular focus on the Council Common Position 2008/944/CFSP, which defines the EU common rules governing control of exports of military technology and equipment (the EU Common Position), and Regulation (EU) 2021/821, which sets up a EU regime for the control of exports, brokering,

technical assistance, transit and transfer of dual-use items. Furthermore, I assess the EU's use of restrictive measures involving arms embargoes as a tool of external action and promotion of human rights.

In the second chapter, I address the **economic and corporate dimension**. Within the chapter, I first contextualise the macroeconomic impact of the EU arms industry, particularly in terms of turnover, employment, exports and public expenditure.

Furthermore, I examine the publicly available information for the seven largest companies in the EU arms industry in terms of revenues, scrutinising their ownership and control structures, as well as their main markets and products, to draw conclusions regarding their primary drivers and influences for manufacturing and marketing decisions.

Additionally, I assess the extent to which these companies adhere to and implement the UN Guiding Principles on Business and Human Rights (UNGPS), in order to understand the consideration of human rights in decision-making processes within these companies. Moreover, I briefly examine the potential impact of the Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859 (CSDDD) on the largest companies in the sector.

Finally, I analyse the lobbying activities carried out by the arms industry at the EU level, aiming to determine the extent of their influence on EU policies and legislation concerning defence and security.

In the third chapter, I focus on the **political dimension**. This chapter commences with a general conceptualisation of the different perspectives on the current geopolitical tensions -especially since February 2022- characterised by a possible *New Cold War* and the loss of hegemony of the USA and its allies in favour of a multipolar world order. This part of the chapter concludes with a reflection on the role of the EU in this global scenario and how the persistent tension between national and supranational sovereignty prevents the EU from developing a single, coherent external action.

Then, I delve into the existing Common Security and Defence Policy (CSDP), an important part of the Common Foreign and Security Policy (CFSP), with the purpose of reflecting on the factors driving EU decisions in this area.

I examine the key policy steps and institutional changes adopted in the EU with the goal of increasing military expenditure and consolidating a strong arms industry, and the acceleration of this agenda from February 2022. Also, I analyse the different public statements made by leading EU and Member States officials justifying the need for increased militarisation, that have shaped the current prevailing narrative. Conversely, I consider alternative perspectives and critiques of this approach, particularly those coming from proponents for progressive disarmament as a means to peace.

Having analysed the EU arms industry and policies from this triple perspective —legal, economic and political—, as well as the interactions among them, I draw conclusions on what actually drives the EU on arms industry and defence policies. In particular, I aim to ascertain the role of human rights and democratic values in these decisions.

## **2. Chapter 1 - Regulatory dimension**

### **2.1. International regulatory framework**

#### **2.1.1. Weapons of mass destruction**

International humanitarian law (IHL) seeks to "impose limits on the destruction and suffering caused by armed conflict" (International Committee of the Red Cross (ICRC), n.d.). Consequently, since its modern inception in the second half of the 19th century, IHL has among its main objectives the restriction of the use of certain means and methods of warfare.

The aspirations of the disarmament agenda clearly go beyond the minimal goals of IHL and include not only alleviating the suffering caused by wars but also preventing and ending them (United Nations Office for Disarmament Affairs, 2018). However, I can observe that these aspirations conceal a more widespread agreement among states when it seeks to limit the use, production and/or trade of those weapons which, by their nature or use, are likely to breach the cardinal principles of IHL: the distinction among civilians and combatants and the prohibition to inflict unnecessary suffering (Legality of the Threat or Use of Nuclear Weapons (Advisory Opinion), 1996, para. 78).

Nevertheless, the normative evolution of international rules addressing this matter has been inconsistent throughout time and highly dependent on the existing geo-political scenario. Efforts to impose restrictions on the methods of war tend to be invigorated following major confrontations, such as the end of each World War and the Cold War. Conversely, there is often reluctance to advance in this direction when new conflicts are emerging and security threats are perceived to be more intense.

International endeavours to restrict the use and proliferation of arms have primarily focused on weapons capable of causing mass casualties or serious bodily injury to large numbers of people, commonly referred to as weapons of mass destruction (WMDs). In this section, I focus on the history of treaties addressing WMDs, particularly biological, chemical, and nuclear weapons. Here, I critically analyse the scope of these treaties and the role of the Member States, who are generally party to them —with the notable exception of the TPNW—.

##### **2.1.1.1. Biological and chemical weapons**

The 1899 Hague Declaration (IV, 2) and the 1907 Hague Convention (IV) established prohibitions on "the use of projectiles, the sole object of which is the diffusion of asphyxiating

or deleterious gases" (1899 Hague Declaration (IV, 2)) and the employment of "poison or poisoned weapons" (1907 Hague Convention (IV), Article 23(a)), respectively. Similar to other rules of IHL, the primary objective of these provisions was to regulate the conduct of hostilities in a manner that reduces human suffering, rather than pursuing a disarmament or anti-proliferation agenda *per se*.

Following the atrocities committed during the First World War and the establishment of the League of Nations, several of its members signed the 1925 Geneva Protocol. This treaty aimed to prohibit the use of "asphyxiating, poisonous, or other gases, and of all analogous liquids, materials, or devices", as well as "bacteriological methods of warfare", in international armed conflicts. The 1925 Geneva Protocol is widely ratified, with 146 parties, including all current Member States.

Despite the relevance of its provisions, commentators such as Croddy, E.A. and Wirtz, J.J. (2005, pp.140–142) have highlighted several gaps in the 1925 Geneva Protocol, particularly when read together with the reservations thereto, that rendered it insufficient to effectively impede the proliferation of bacteriological and chemical weapons. These deficiencies include the lack of prohibition on their use against non-ratifying parties, in non-international armed conflicts<sup>1</sup>, or as retaliation, as well as the silence regarding the research, development, and stockpiling of bacteriological and chemical weapons. Furthermore, the 1925 Geneva Protocol did not include any explicit restrictions on the trade of these weapons.

During the interwar period, in addition to the 1925 Geneva Protocol, there was an ambitious but unsuccessful international attempt to advance the disarmament agenda under the auspices of the League of Nations. This effort culminated in the Conference for the Reduction and Limitation of Armaments (the Geneva Conference), which took place between 1932 and 1934.

The Geneva Conference aimed to fulfil the extensive mandate outlined in Article 8 of the Covenant of the League of Nations. According to this Article, members acknowledged that "the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations", and stated that "the manufacture by private enterprise of munitions and implements of war is open to grave objections".

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<sup>1</sup> Later, the prohibition of the use of chemical weapons in both international and non-international armed conflicts has been considered a norm of customary international law applicable (ICRC, 2005, Rule 74).

Some delegations initially proposed significant reforms—particularly, the USA delegation was prepared to advocate for the total abolition of tanks, certain heavy mobile land artillery, and toxic gases (US Department of State, 1948, p.70) —, but the geopolitical tensions that characterised these years made it impossible to implement any concrete agreement on disarmament. These strains were exacerbated by Hitler's Germany policies—which actually withdrew from the League of Nations and from the Geneva Conference in 1933—, including its refusal to comply with the disarmament provisions of the 1919 Treaty of Versailles.

Arthur Henderson, awarded the Nobel Peace Prize in 1934 for his role as chairman of the Geneva Conference, identified national security and equality of rights as the "two of the most difficult aspects of the problem of an organised peace" (Henderson, A., 1934, 11 December). As an advocate of a cosmopolitan approach, he proposed unreserved political cooperation, world law and order, and social justice as the pillars for disarmament and durable peace. However, the horrors that unfolded in the following years demonstrated the failure of the Geneva Conference and the League of Nations.

After the end of the Second World War, there was renewed momentum to establish a rules-based global order as a means to achieve peace and security. The creation of the United Nations (UN) on 26 June 1945 stands out as the most prominent example of this aspiration. In this regard, the Preamble to the UN Charter expressly cites the maintenance of international peace and security and the prevention of the use of armed force among its objectives. Moreover, the first resolution ever adopted by the UN General Assembly (UNGA), in 1946, addressed the establishment of a commission to deal with the problems raised by the discovery of atomic energy (UNGA Resolution 1(I) (1946), UN Doc A/RES/1(I)) (see **section 2.1.1.2** below).

However, the escalating tensions between the Western and the Eastern blocs in the subsequent years, which led to the Cold War, hindered effective progress on multilateral disarmament and arms limitation, despite documented uses of chemical weapons, including their targeting of civilians (Arms Control Association, 2022, para. III). It was not until the 1970s that the 1972 Biological Weapons Convention (BWC) was adopted, and the 1993 Chemical Weapons Convention (CWC) was signed in 1993, following the collapse of the Eastern bloc and the conclusion of the Cold War.

The BWC, adopted at the height of the Cold War, is recognised by the UN as "the first multilateral disarmament treaty banning an entire category of weapons of mass destruction" (United Nations Office for Disarmament Affairs, n.d.(1)). The BWC specifically prohibits the

development, production, acquisition, transfer, stockpiling, and use of biological and toxin weapons (BWC, Article I). Currently, 183 states are party to the BWC, with all Member States having ratified or acceded to it, although France did not accede until 1984.

While the BWC represents a milestone in creating an international law framework to restrict the proliferation of WMDs, a critical analysis reveals significant flaws. Goldblat, J. (1997, pp.253-262) summarises these omissions, highlighting ambiguities in defining terms such as "weapons, equipment, or means of delivery", the absence of restrictions on biological research activities, reliance on the 1925 Geneva Protocol to limit the use of these weapons (despite some states not being party to both instruments), and, most critically, the complete lack of mechanisms to verify compliance with BWC undertakings. Huigang, L. et al. (2022, pp.50-53) also emphasise the challenges posed by the imperfect performance verification mechanism, especially in light of rapid advancements in biotechnologies and international trade.

Only after the end of the Cold War, in 1993, was it possible to sign an international treaty that significantly expanded upon the restrictions set forth in the 1925 Geneva Protocol: the CWC. The CWC represents an advancement by prohibiting the development, production, acquisition, stockpiling, retention, transfer, or use of chemical weapons by state parties (CWC, Article I.1), mandating the destruction of existing chemical weapons and their production facilities (CWC, Articles I.2 to I.4), and imposing on state parties the obligation to enforce these prohibitions within their jurisdictions (CWC, Article VII). Crucially, unlike the 1925 Geneva Protocol, the CWC does not allow any exceptions for retaliatory purposes or for use in non-international conflicts.

Furthermore, the CWC established a rigorously regulated verification system that includes empowering an international organisation, the Organisation for the Prohibition of Chemical Weapons (OPCW), with authority to monitor compliance and implementation of the treaty. This framework entails annual declarations by state parties (CWC, Article VI), on-site inspections conducted by OPCW-appointed inspectors (CWC, Article IX), and extensive provisions for verification and oversight (CWC, Article X).

As with the BWC, all Member States are party to the CWC. Moreover, while the EU itself is not a party to the CWC, it actively supports its implementation. This involvement goes beyond the compliance by Member States with the treaty's obligations and timely financial contributions to the OPCW. The EU, as a distinct entity, has provided additional financial

support to the OPCW<sup>2</sup> and leveraged its global influence to uphold this norm. This includes diplomatic efforts and other coercive measures against non-compliant parties (as evidenced with varying degrees with Syria and Russia) and initiatives to bolster capacity building and international assistance (Ghionis, A. & Kelle, A., 2024, p.6).

In their analysis of the EU's role in effectively implementing the CWC, Ghionis, A. & Kelle, A. (2024, pp.12-14) have identified several challenges to overcome: consistency in the application of the norm, adaptation of the compliance verification system—focusing more on addressing *ad hoc* threats than on regular programmatic inspections—and enhancement of inclusivity, coordination, and cooperation with other states, civil society, the business community, and other stakeholders.

In this context, the EU, guided by the principles outlined in the CWC, has been adopting specific restrictive measures against the proliferation and use of chemical weapons since 2018. As of 9 October 2023, 25 individuals and three legal entities were subject to a variety of economic sanctions and travel bans imposed by the Council due to their involvement in manufacturing, acquiring, possessing, developing, transporting, stockpiling, or transferring chemical weapons, or engaging in any preparations for their use (Council of the EU, 2023).

#### **2.1.1.2. Nuclear weapons**

Nuclear weapons are often described as "the most inhumane and indiscriminate weapons ever created" (International Campaign to Abolish Nuclear Weapons, n.d.). Despite their use in armed conflict being limited to the USA's attacks on Hiroshima and Nagasaki in August 1945, their catastrophic effects sparked immediate global concern. Some states, international organisations and civil society organisations (CSOs) have since pursued efforts to restrict and ultimately ban nuclear weapons, arguing that their very existence threatens humanity (International Campaign to Abolish Nuclear Weapons, n.d.). Conversely, proponents of nuclear deterrence theory, often using game-theory approaches, argue that in certain circumstances, possessing nuclear weapons may contribute to deterring conflict (Sagan, S. & Waltz, K., 1995, p.20). This perspective has impeded progress towards global nuclear disarmament, particularly during periods of heightened tensions among nuclear states.

As of July 2024, nine countries are known to possess nuclear weapons, including one Member State, France, which is estimated to have 290 out of the approximately 12,100 nuclear

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<sup>2</sup> As calculated by Ghionis, A. & Kelle, A. (2024, p.2), the aggregate amount of such contributions by the EU between 2004 and 2023 (both inclusive) amounted to €40,614,156.

weapons worldwide (Federation of Atomic Scientists, 2023). Additionally, Italy (20 weapons), Belgium, Germany, and the Netherlands (15 weapons each) host USA nuclear warheads on their territory (Federation of Atomic Scientists, 2023). Most Member States are also members to the North Atlantic Treaty Organisation (NATO)<sup>3</sup>, which explicitly places collective nuclear deterrence at the core of its policies. According to NATO (2020), "as long as nuclear weapons exist, NATO will remain a nuclear Alliance and Allies will continue to take all steps necessary to ensure NATO's nuclear deterrent remains safe, secure and effective".

All things considered, approaches to regulating nuclear weapons are more complex compared to those for chemical and biological weapons, where there is nearly unanimous consensus on their prohibition. In this section, I outline the key milestones in international norms against nuclear proliferation and banning efforts, while analysing the nuanced positions taken by Member States.

In August 1945, shortly after the creation of the UN, the USA used two nuclear weapons against Japan, demonstrating the profound threat these weapons pose to global peace and security. As a result, restricting nuclear weapons has been a paramount objective of the UN ever since, prompting numerous initiatives — with varying degrees of success — under its auspices to advance the nuclear disarmament agenda.

In 1946, the first resolution issued by the UNGA established the Atomic Energy Commission to address the problems raised by the discovery of atomic energy (UNGA Resolution 1(I) (1946), UN Doc A/RES/1(I)). However, this initiative did not deter the nuclear race. In August 1949, the Soviet Union conducted its first successful weapon test, becoming the second nuclear power<sup>4</sup> and inaugurating a new phase in the Cold War. Since then, the nuclear deterrence theory has hindered any unilateral steps towards nuclear disarmament.

In 1952, the UNGA replaced the existing Atomic Energy Commission with a newly established UN Disarmament Commission, "moved by the anxiety at the general lack of confidence plaguing the world" (UNGA Resolution 502(VI) (1952), UN Doc A/RES/502(VI), para. 1). Nevertheless, the UN Disarmament Commission failed to produce any significant advances and "only met occasionally after 1959" (United Nations Office for Disarmament Affairs, n.d.(2)). From 1959 onward, the Ten Nation Committee on Disarmament (TNCD) became the leading international forum for nuclear disarmament talks. This body was

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<sup>3</sup> As of July 2024, only four Member States (Austria, Cyprus, Ireland and Malta) are not members of NATO.

<sup>4</sup> In the following years, the UK (1952), France (1960) and China (1964) would also become nuclear powers.

established by the Big Four powers (the USA, the UK, France and the Soviet Union) outside the UN system. However, it was well received by the UNGA and eventually endorsed through Resolution 1378(XIV)/1959 (LeGault, A. & Fortman, M., 1992, p.170-173).

During 1961, the UNGA declared that the use of nuclear weapons "would exceed even the scope of war and cause indiscriminate suffering and destruction to mankind and civilization and, as such, is contrary to the rules of international law and to the laws of humanity" (UNGA Resolution 1653(XVI) (1961), UN Doc A/RES/1653(XVI)). In a resolution sponsored by Ireland, the UNGA also called upon states to exert their best efforts to enter into a non-proliferation treaty (UNGA Resolution 1665(XVI) (1961), UN Doc A/RES/1665(XVI)). In December 1961, the major powers agreed to expand the TNCD to create the Eighteen Nation Committee on Disarmament (ENCD), sponsored by the UNGA through UNGA Resolution 1722(XVI) (1961), UN Doc A/RES/1722(XVI).

Years of negotiations within the ENCD culminated with the opening for signature of the NPT in 1968. This treaty did not ban nuclear weapons, but it *froze* the existing nuclear *status quo*, aiming to prevent the arms race that had characterised the previous years. The NPT distinguishes between nuclear-weapon states (the USA, the Soviet Union, the UK, France, and China at the time) and non-nuclear-weapon states, and it differentiates three interrelated and mutually reinforcing pillars: non-proliferation, disarmament and the right to peacefully use nuclear technology.

On the non-proliferation side, the NPT prohibits nuclear-weapon state parties from transferring or assisting non-nuclear-weapon states in obtaining nuclear explosive devices (NPT, Article I). Conversely, it prohibits non-nuclear-weapon state parties from receiving transfers, manufacturing, or acquiring nuclear explosive devices (NPT, Article II). Additionally, the NPT establishes a safeguards system under the responsibility of the International Atomic Energy Agency (IAEA), which verifies compliance through on-site inspections following bilateral agreements with state parties (NPT, Article III).

However, on the disarmament side, state parties only committed to "pursue negotiations in good faith on effective measures relating to the cessation of the nuclear arms race at an early date and to nuclear disarmament" (NPT, Article VI). Furthermore, the NPT includes provisions for the holding of conferences among state parties every five years to monitor compliance (NPT, Article VIII.3).

As of July 2024, the NPT enjoys near-universal membership, including all Member States, making it the most widely accepted arms control treaty. The only states not party to the NPT are South Sudan, India, Israel and Pakistan. Notably, France did not accede to the treaty until 1992, although they declared that they "would behave in the future in this field exactly as the States adhering to the Treaty" (Arms Control Association, n.d.).

The EU repeatedly reaffirms its commitment to strengthening the NPT. In 2003, the Council endorsed the EU Strategy against proliferation of WMDs, emphasising the significance of effective multilateralism, particularly, the implementation and universalisation of the NPT, as well as the promotion of a stable international and regional environment and close co-operation with key partners (Council of the EU, 2003). However, while the EU's adhesion to the non-proliferation pillar is evident through its policies and actions, its stance on nuclear disarmament is more ambivalent (see below in this section).

Following the adoption of the NPT, nuclear disarmament gradually progressed in the last decades of the 20th century through bilateral arms control agreements, mainly between the USA and the Soviet Union/Russia. These strategic negotiations focused on narrowing "technical limitations on the capabilities or military behaviour that potential adversaries [could] devise to reduce the risks and costs of competition" (Gallagher, N., 2015, p.471).

However, as relations between Russia and the West began to deteriorate in the 21st century, this arms control architecture entered into a crisis. In 2002, the USA's withdrawal from the 1972 Anti-Ballistic Missile Treaty prompted Russia to exit the 1993 Strategic Arms Reduction Treaty (START II) (Arms Control Association, 2002). The Obama administration renewed efforts on nuclear arms control with Russia, primarily by promoting the signing of the New START Treaty in 2010<sup>5</sup>, a treaty that outlines further reductions and limitations on strategic offensive arms and includes several measures to verify compliance, such as on-site inspections and information exchanges. Nevertheless, citing multiple violations by Russia since 2014, the Trump administration withdrew from the 1987 Intermediate-Range Nuclear Forces Treaty, evidencing the collapse of the post-Cold War arms control system (Arms Control Association, 2018). This crisis reflects the escalating tensions between Russia and the West, which are, in turn, connected to ongoing shifts in the post-Cold War international order, largely driven by the increasing strategic significance of China. **Chapter 3** below will further explore this new world order and the EU's position within it.

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<sup>5</sup> It is important to note that the New START Treaty is set to expire on 4 February 2026, unless the USA and Russia agree to a new extension.

The void in nuclear arms control was filled by states and CSOs advocating for a complete ban on nuclear weapons, championing multilateralism as the appropriate framework to address this issue. The 2013 and 2014 Conferences on the Humanitarian Impact of Nuclear Weapons led to the Austrian Government's pledge to cooperate "in efforts to stigmatise, prohibit and eliminate nuclear weapons in light of their unacceptable humanitarian consequences and associated risks" (Linhart, M., 2014, 9 December). This Austrian or Humanitarian Pledge garnered endorsement from 107 states by the close of the 2014 conference.

In 2015, the UNGA capitalised on the growing momentum for nuclear disarmament by establishing an open-ended working group to formulate recommendations for advancing multilateral nuclear disarmament negotiations (UNGA Resolution L.12/Rev1 (2015), UN Doc A/C.1/70/L.13/Rev.1). Concurrently, the International Campaign to Abolish Nuclear Weapons (ICAN), comprising over 600 NGOs, played a pivotal advocacy role, rallying states and initiating negotiations that ultimately led to the adoption of the TPNW on 7 July 2017. The ICAN was awarded the 2017 Nobel Peace Prize for "its work to draw attention to the catastrophic humanitarian consequences of any use of nuclear weapons and for its ground-breaking efforts to achieve a treaty-based prohibition of such weapons" (NobelPrize.org, 2017).

The TPNW establishes a comprehensive set of prohibitions regarding nuclear explosive devices, mirroring those already in place for chemical and biological weapons. These prohibitions include, for the first time, developing, testing, producing, manufacturing, acquiring, possessing or stockpiling nuclear explosive devices (Article 1(a)); transferring them (Article 1(b)); receiving them (Article 1(c)); and even stationing, installing or deploying them at any place under a state party's jurisdiction or control (Article 1(g)). In addition to the direct legal implications for state parties, the adoption of the TPNW contributes to stigmatising and delegitimising nuclear weapons and the deterrence theory (Vestner, T., 2022, p.423) and to name-and-shame nuclear states (Herrera, M., 2024, p.324).

Although the TPNW entered into force on 22 January 2021, as of June 2014 there are only 70 state parties to the treaty, including just three Member States: Austria, Ireland, and Malta. No NATO member is a party to the TPNW, as collective nuclear deterrence is central to NATO's defence strategy. This situation has undermined the treaty's practical effects on actual disarmament so far.

The reasons cited by states for not signing the TPNW include that the non-participation of nuclear powers undermines the efficacy of the treaty, that its implementation could undermine

the existing framework of the NPT, and that it overlooks key international security challenges (Trezza, C., 2017, pp.1-4). Moreover, critics underscore the absence of robust verification mechanisms (Maitre, E., 2018, pp.35-39), implying that this deficiency fails to guarantee that "stockpile destruction does not pose a security risk in a multipolar environment with tensions and conflicts that do not encourage trust" (Herrera, M., 2024, p.328).

However, in 2020, 56 world leaders -mostly from NATO member states and including two former NATO secretary-generals- signed an open letter urging their states to become a party to the TPNW. They declared that "nuclear weapons serve no legitimate military or strategic purpose in light of the catastrophic human and environmental consequences of their use" (Arms Control Association, 2020). In this regard, the anti-nuclear weapons movement rejects the notion that the nuclear deterrence theory is applicable in reality. The arguments against nuclear deterrence include the following (ICAN, n.d.): (1) the theory assumes state officials act rationally and predictably, an assumption that does not hold true in all scenarios; (2) the possession of nuclear weapons has not prevented armed conflicts since 1945, with many involving nuclear powers, often in proxy wars; (3) the nuclear threat can exacerbate armed conflicts by limiting the defensive capacity of states under aggression, as exemplified by the Russian invasion of Ukraine in 2022; (4) nuclear deterrence relies on the credible threat of using nuclear weapons, which inherently creates a significant risk; and (5) nuclear deterrence is ineffective against modern methods of warfare such as cyber attacks and terrorism.

The lack of a unified stance within the EU on nuclear disarmament is evident. It has even been suggested that nuclear disarmament and the TPNW have been "singled out as a taboo subject at EU Council meetings" (Herrera, M., 2024, p.328). The EU's traditional disarmament advocates, such as Austria and Ireland (both non-NATO members) joined the Humanitarian Pledge and ratified the TPNW, playing a central role in the negotiations. Their view is summarised in Austria's representative intervention at the 2023 meeting of state parties to the TPNW: "A security approach that is based on the threat of global mass destruction [...] is not only morally unacceptable but a high-risk gamble with the security of all humanity" (Kmentt, A., 2023, 28 November).

France illustrated its contrasting position in President Macron's 2022 Joint Statement with President Biden, where they reaffirmed their opposition to the TPNW. They argued that the TPNW does not "reflect the increasingly challenging international security environment and is at odds with the existing non-proliferation and disarmament architecture" (Biden, J.R., & Macron, E., 2022, 1 December). This stance is aligned with NATO's adherence to nuclear

deterrence policy, which, in practical terms, means that no unilateral nuclear disarmament steps will be taken without a prior agreement with non-NATO nuclear powers. Furthermore, since the 1970s, France has developed a distinct doctrine of nuclear deterrence focused on protecting its "vital interests" and based on "strict sufficiency", a principle reiterated over time and recently reaffirmed by President Macron. Hence, while France is committed to NATO's "nuclear culture", it does not participate in NATO's nuclear planning mechanisms (Macron, E., 2020, 7 February).

As of July 2024, the positions around this debate are more entrenched than they have been since the end of the Cold War. Following the February 2022 full-scale invasion of Ukraine by Russia, the nuclear threat rhetoric by Russian officials has become increasingly unambiguous. In 2022, the Tenth NPT Review Conference was unable to adopt a final document due to Russia's objection (Vienna Center for Disarmament and Non-Proliferation, 2022). In June 2024, after the USA and other NATO members decided to allow Ukraine to use their arms to strike Russian territory, President Putin stated that Russia could use all means at its disposal to defend its sovereignty, adding, "for some reason, the West believes that Russia will never use it [its nuclear arsenal]" (Nakhoul, S. & Faulconbridge, G., 2024). This threat intensifies the deadlock inherent in the prisoner's dilemma surrounding nuclear disarmament.

As I will further explore in **Chapter 3**, Russia's threat to Europe is accelerating and shaping debates about armament policies within the EU. In this context, diverging positions around nuclear disarmament exemplify the lack of a cohesive strategy and the inability to reach a common position on fundamental defence and security matters among Member States. One risk of the EU's paralysis regarding this matter is that it "will move from being a constructive force in the NPT to simply being a microcosm of the global divisions on nonproliferation and disarmament between nuclear-weapon states and non-nuclear-weapon states" (Herrera, M., 2024, p.332).

## **2.1.2. Conventional weapons**

### **2.1.2.1. 2013 Arms Trade Treaty**

International disarmament movements have long advocated for regulating the global arms trade in general (see, for instance, reference to the 1932 Geneva Conference in **section 2.1.1.1.2** above). However, significant initiatives within the UN system to address the proliferation of conventional arms emerged only after the end of the Cold War, as efforts during that period were primarily focused on WMDs. Concerns about the threats to

international peace and security posed by unregulated international transfers of conventional arms and illicit arms trafficking have driven these initiatives. Following the development of several soft law instruments, negotiations ultimately led to the adoption of the 2013 Arms Trade Treaty (ATT). The ATT marked a milestone as the "first legally-binding instrument ever negotiated in the United Nations to establish common standards for the international transfer of conventional weapons" (Woolcott, P., 2014, p.1).

In 1992, the UNGA urged states to "exercise effective control over their [...] arms imports and exports to prevent them from getting into the hands of parties engaged in the illicit arms trade" and to cooperate at all levels to achieve this goal (UNGA Resolution 46/36 (1992), UN Doc A/RES/46/36, para. H). Additionally, the same resolution established the UN Register of Conventional Arms to promote transparency by periodically collecting data on the member states' international transfers of major conventional arms.

In the context of UNGA Resolution 46/36 (1992), the UN Disarmament Commission issued guidelines for international arms transfers in 1996, providing practical recommendations for states focused on preventing arms trafficking. These guidelines emphasised that states should not only consider economic factors in their international arms transfers but also prioritise "the maintenance of international peace and security, efforts aimed at easing international tensions, promoting social and economic development, peacefully resolving regional conflicts, preventing arms races, and achieving disarmament under effective international control" (United Nations Disarmament Commission, 1996, Para. 19). These initiatives were succeeded by the adoption of the UN Programme of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects in 2001, and the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons in 2005. These non-binding measures addressed cooperation and assistance in weapons tracing and stockpile management.

Outside of the UN system, humanitarian actors also advocated for integrating IHL and IHRL into arms transfer decisions. In 1999, the ICRC specifically proposed that "all national and international standards for arms transfers should include a requirement to assess the recipient's likely respect for international humanitarian law and to not authorise transfers if there is a clear risk that the arms will be used to commit serious violations of this law" (ICRC, 2007, p.3). To support this, in 2007, the ICRC published a practical guide for applying IHL criteria in arms transfer decisions.

Initiatives to adopt binding rules for conventional arms trade regained momentum in 2006. As Woolcott, P. (2014, p.2) noted, "the fact that the international trade in bananas was more tightly regulated under international law than conventional arms was beginning to resonate strongly with many States". This growing recognition, spurred by civil society campaigns, led to the adoption of the UNGA Resolution 61/89 (2006), UN Doc A/RES/61/89, titled *Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms*. States subsequently embarked on negotiations that culminated in the signing of the ATT. Woolcott, P. (2014, p.2) summarises the differing approaches to the ATT among various groups of states: exporting states sought a standardised and transparent legal framework that *level the playing field* for their arms industries; transit and trans-shipment states were interested in alleviating administrative burdens; importing states valued legal certainty in selecting of their means of defence; and states affected by armed violence due to illicit arms transfers focused on the humanitarian outcomes the ATT would bring.

The ATT aims at establishing the "highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms" and at preventing and eradicating "illicit trade in conventional arms" (Article 1).

In this regard, Article 6 ATT prohibits state parties to authorise transfers of certain conventional arms and related items<sup>6</sup> if (a) the transfer would violate the state's obligations under UN Security Council (UNSC) restrictive measures (e.g., arms embargoes) or international agreements, or if (b) the state has "knowledge at the time of authorisation" that the arms or items would be used in the commission of certain international crimes (genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes). However, this provision does not prevent state parties from authorising transfers of arms to recipients involved in grave violations of IHL or IHRL, as long as they do not have knowledge that the specific exported goods will be used for those violations.

In addition to these absolute prohibitions, Article 7(1) ATT requires exporting state parties to conduct a risk assessment to determine if the exported goods could potentially contribute to or undermine peace and security or be used to commit or facilitate a serious violation of IHL,

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<sup>6</sup> Per Articles 2(1), 3, and 4 ATT, only the following categories are within the scope of the treaty: (a) Battle tanks; (b) Armoured combat vehicles; (c) Large-calibre artillery systems; (d) Combat aircraft; (e) Attack helicopters; (f) Warships; (g) Missiles and missile launchers; and (h) Small arms and light weapons, as well as the ammunition fired or launched by such arms and the parts and components necessary for their assembly. Categories (a) to (g) correspond to those covered by the UN Register of Conventional Arms.

IHRL, or international obligations relating to terrorism or organised crime. This assessment shall also take into account potential serious acts of gender-based violence or violence against women and children (Article 7(4) ATT). Following such an assessment, per Article 7(3) ATT, the exporting state party shall not authorise the export if, after considering existing mitigating measures<sup>7</sup>, there is an "overriding risk" of an Article 7(1) ATT harm. The ambiguity of this concept allows states a degree of discretion in denying or granting arms exports licences, enabling them to align such decisions with their overall foreign policy objectives, as I will discuss in **section 2.1.2.1** below.

Additionally, Article 11 ATT requires exporting states to establish a national control system to prevent the diversion of arms transfers. Articles 12 and 13 impose record-keeping and reporting obligations "to promote cooperation, transparency and responsible action in the international trade of conventional arms" (Woolcott, P., 2014, p.6).

The ATT entered into force on 24 December 2014, and as of July 2024, it has 113 parties, including all Member States —moreover, the EU Common Position imposes similar restrictions on Member States as those established in the ATT, as I will explore in **section 2.2** below—. However, some of the largest arms-exporting countries, including the USA, Israel and Russia, are not parties to the ATT, which undermines the effectiveness of the global arms trade control system that this treaty aims to create.

Even though the ATT represented a milestone in binding global arms trade regulation, it has not fully prevented recipients involved in alleged violations of IHL or IHRL from receiving arms from state parties thereto.

Against the backdrop of the use of imported arms in violations of IHL and IHRL within the armed conflict in Yemen, the UN Working Group on Business and Human Rights (WGBHR) identified several gaps in this regulatory framework. Firstly, the concept of "overriding risk" allows states "leeway for subjective interpretations, even if the fact that human rights violations are occurring is not disputed" (WGBHR, 2022, p.1). Secondly, the list of conventional arms covered by the ATT is not fully comprehensive and excludes dual-use goods and technologies<sup>8</sup>. Thirdly, national security concerns are often used to hinder transparency and oversight of arms sales. In this regard, there is a correlation between lack of

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<sup>7</sup> The ICRC has noted that mitigating measures should be "timely, robust and practical" and "assessed cautiously in terms of what is realistically achievable in the circumstances" (ICRC, 2016, pp.38-39).

<sup>8</sup> Nevertheless, ATT encourages state parties to apply its provisions to the broadest range of conventional arms (ATT, Article 5.3) and, in the EU context, Regulation (EU) 2021/821 regulates the export control regime for dual-use items (see **section 2.2** below).

effective parliamentary and civil society control over arms sales and transfers of arms to scenarios involving IHL and IHRL violations (International Federation for Human Rights, 2020). Finally, the WGBHR (2022, p.7) recommended states, among other measures, to "publicly communicate information about risk assessments in export licence approval decisions" and to "establish independent oversight of arms transfers through parliamentary commissions, national human rights institutions, and other independent mechanisms".

Similarly, the Friedrich-Ebert-Stiftung (2019, p.4) criticises that the term "overriding risk" give states a high degree of discretion in their assessments, which has "led to export decisions among European countries that contradict each other in cases where the end-user is the same and the type of weaponry comparable".

Additionally, Arms Trade Litigation Monitor (2024(3)) notes that the national implementation of the ATT by state parties is often insufficient, hindering effective litigation before domestic courts against alleged violations of the ATT. In France, two cases calling for the suspension of arms export licences to the coalition led by Saudi Arabia and the UAE due to serious violations of IHL and IHRL in the armed conflict in Yemen were dismissed on grounds of jurisdiction and justiciability by the Council of State (Council of State (*Conseil d'État*), no. 436098, 2023, 27 January) and the Administrative Court of Paris (Administrative Court of Paris (*Tribunal Administratif de Paris*), no. 1909737/9, 2019, 13 May), respectively. The courts argued that the ATT and the EU Common Position (see **section 2.2** below) only regulate inter-state relations and do not have direct effect domestically. Furthermore, in a similar case, the Administrative Court of Appeals of Paris argued that licencing decisions are *actes de gouvernement* that are not detachable from French foreign policy and that judges are not competent to scrutinise the exercise of sovereign powers (Administrative Court of Appeals of Paris (*Cour Administrative d'Appel de Paris*), no. 19PA02929, 2019, 26 September).

Courts in Italy and the Netherlands, however, ruled differently in related cases. In 2023, in a criminal case against officials of the Italian Authority for the Export of Armament (UAMA), the Judge for Preliminary Investigations in Rome admitted that the UAMA was "in violation of at least Articles 6 and 7 of the ATT" by issuing export licences for military equipment used in airstrikes against civilian targets in Yemen. However, the case was dismissed due the lack of proof of criminal intent by the accused individuals (Rete Italiana Pace e Disarmo, 2023). On 12 February 2024, the The Hague Court of Appeal ruled in favour of a group of NGOs seeking to halt the transfer of F-35 fighter jet parts from the Netherlands to Israel that could

be used in attacks on Gaza, on the grounds that "there is a clear risk that serious violations of international law are committed with the F-35s" (Arms Trade Litigation Monitor, 2024(1)). The Dutch Government announced it would lodge an appeal in cassation to the Dutch Supreme Court.

Although the ATT represented a step forward in establishing an international legal framework for integrating respect for IHRL and IHR in arms trade decisions, it exhibits numerous deficiencies. These include the lack of ratification by leading arms-exporting states, ambiguous terminology that allows states to condition their arms trade decisions to economic and geo-political factors, and the absence of independent monitoring bodies and mechanisms. In this regard, NGOs and CSOs play a crucial role through strategic litigation, pushing for a coherent application of the norm, and providing data to help states make informed decisions.

Transparency International (2019) have put forward several proposals for CSOs to influence a more effective application of the ATT, including providing data, and research reports to support risk assessments by arms export control agencies; raising awareness of the relevance of the ATT and putting pressure on states to ratify it; offering training and assistance to parliamentarians and other actors on arms control issues; monitoring progress in the implementation and potential violations of the ATT; and promoting transparency and common reporting standards under the ATT.

Furthermore, future steps in international arms control treaties should focus on efficient monitoring mechanisms, setting objective conditions to trigger the obligation to deny of arms export licences —such as referencing international courts rulings that evidence the recipient country's involvement in serious violations—, and removing the requirement that specific exported weapons are be used for the violation, which currently allows exporting states considerable leeway to avoid responsibility.

#### **2.1.2.2. The Wassenaar Arrangement**

In addition to the ATT, several non-binding multilateral export control frameworks hold practical importance. In the European context, the 1996 Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (the Wassenaar Arrangement) is the most relevant, with all Member States (except Cyprus) among its 42 members.

This framework is a voluntary association based on cooperation, meaning it does not impose binding obligations and lacks formal mechanisms to enforce compliance. However, it aims to

promote standard-setting, cooperation and transparency in transfers of arms and dual-use goods and technologies by issuing guidelines, elements and procedures, as well as encouraging information exchange and reporting.

Consequently, it is relevant to examine how human rights are integrated in these guidelines. Among other examples, the 1998 explanatory note titled *Elements for Objective Analysis and Advice concerning Potentially Destabilising Accumulations of Conventional Weapons* calls on states to assess the risks of weapons being transferred "to commit or facilitate the violation and suppression of human rights and fundamental freedoms or the laws of armed conflict" (Wassenaar Arrangement, 1998, para. 1.e), and to consider the general compliance of the recipient state with "internationally-recognised human rights, anti-terrorism and non-proliferation norms" (Wassenaar Arrangement, 1998, para. 3.a).

In this same direction, 2002 Best Practice Guidelines for Exports of Small Arms and Light Weapons recommends states to consider "the respect for human rights and fundamental freedoms in the recipient country" (Wassenaar Arrangement, 2002, para. 1(i)), when assessing proposed exports of small arms and light weapons (SALW). Similarly, they advise against issuing export licences if there is a clear risk that the exported arms might "threaten compliance with international law governing the conduct of armed conflict" (Wassenaar Arrangement, 2002, para. 2(e)), "be used for the purposes of repression" (Wassenaar Arrangement, 2002, para. 2(h)) or "be used for the violation or suppression of human rights and fundamental freedoms" (Wassenaar Arrangement, 2002, para. 2(i)). Other international soft law instruments replicate these recommendations, such as the OSCE Best Practice Guide on Export Control of Small Arms and Light Weapons, issued in 2003.

### **2.1.2.3. Other treaties restricting conventional weapons**

Prior to the 2013 Arms Trade Treaty, several international conventions were adopted to restrict or ban certain categories of conventional weapons that severely affect the civilian population, potentially breaching the cardinal principles of IHL. These treaties often result from pressure by international CSO and NGO campaigns to prohibit methods of warfare particularly harmful to civilians. The 1980 Conventional Weapons Convention (CCW) and its five protocols, the 1997 Ottawa Convention, and the 2008 Oslo Convention are the most notable examples.

The purpose of the CCW is to ban or restrict the use of certain conventional weapons by all parties to an armed conflict, including non-state actors<sup>9</sup>. It consists of a framework convention and five annexed protocols addressing the following categories of weapons:

- Use of weapons designed to injure by non-detectable fragments (Protocol I).
- Clearance, removal or destruction of mines, booby traps and other devices (including IEDs) (Amended Protocol II). States would not achieve consensus on the total ban of anti-personnel landmines until the 1997 Ottawa Convention.
- Use of incendiary weapons (Protocol III).
- Use and transfer of blinding laser weapons (Protocol IV).
- Clearance, removal or destruction of explosive remnants of war (Protocol V).

With the exceptions of Cyprus, which has not ratified the Amendment to Article I that expands the scope of the CCW to non-international armed conflicts, and Lithuania, which has not ratified Protocol II, all Member States are parties to the CCW and its protocols. Nevertheless, the CCW exhibits certain weaknesses; primarily, it "lacks verification and enforcement mechanisms and spells out no formal process for resolving compliance concerns" (Arms Control Association, 2017).

In recent years, proposals to negotiate restrictions on additional categories of conventional weapons have failed. Notably, attempts to impose limitations on anti-vehicle mines, such as requiring them to be equipped with self-deactivation mechanisms, were rejected by countries including China and Russia (Arms Control Association, 2017). Additionally, proposals within the UN Disarmament Committee to ban lethal autonomous weapons (*killer robots*) were opposed by most military powers, including the USA and Russia (Kahn, J., 2021).

The 1997 Ottawa Convention prohibits the use, development, production, acquisition, stockpiling, retention, or transfer of anti-personnel mines and mandates their destruction (1997 Ottawa Convention, Article 1). In similar terms, the 2008 Oslo Convention establishes a ban on cluster munitions (1997 Ottawa Convention, Article 1). Both treaties represent success stories in disarmament activism, the former being driven by the International Campaign to Ban Landmines, a coalition of NGOs that was awarded the Nobel Peace Prize in

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<sup>9</sup> The 2001 Amendment to Article 1 CCW expanded the scope of the convention and its Protocols to non-international armed conflicts.

1997 for their efforts, and the latter being the result of a longstanding movement that culminated in the so-called Oslo Process.

While all Member States are parties to the 1997 Ottawa Convention, the situation regarding 2008 Oslo Convention is more complex. As of July 2024, the 2008 Oslo Convention has only been ratified by 20 Member States, with Cyprus being a signatory pending ratification. Estonia, Finland, Greece, Latvia, Poland, and Romania have not acceded to the treaty and there is no evidence that they intend to do it in the near future. The reasons behind their stance are summarised by an April 2020 letter from the Polish Ministry of Foreign Affairs, which stated that acceding to the convention "would imply the immediate need to forgo important capability of the Polish Armed Forces, thereby weakening our country's defence capacity, which is not acceptable in light of the current security environment" (Landmine & Cluster Munition Monitor, 2023).

Once again, I observe how different national security concerns -particularly regarding the threat of Russia (which has also not ratified the 2008 Oslo Convention)- are shaping divergent positions within the EU and affecting progress in implementing IHL and international disarmament rules. Moreover, this case provides yet another example of the prisoner's dilemma that prevents unilateral steps towards disarmament in tense and/or conflict scenarios.

## **2.2. EU regulatory framework for arms trade**

### **2.2.1. Introduction**

After the 1992 Maastricht Treaty established the CFSP as the second pillar of the EU, regulating arms trade became an increasingly pressing concern. In subsequent years, the EU adopted several soft-law instruments, strategies, and common positions to "harmonise national arms export policies and promote more responsible licensing of arms exports" (Flemish Peace Institute, 2011, p.40). Notably, the Council endorsed the EU Code of Conduct on Arms Exports in 1998, followed by the Joint Action 2002/589/CFSP on the EU's contribution to combating the destabilising accumulation and spread of small arms and light weapons in 2002, and the Common Position 2003/468/CFSP on the control of arms brokering in 2003. The Council further endorsed the strategy against the proliferation of WMDs in 2003 (see **section 2.1.1.2** above), and a strategy to combat illicit accumulation and trafficking of small arms and light weapons and their ammunition in 2005.

Despite these efforts, EU arms export<sup>10</sup> control policies navigate between two often conflicting interests. On one side is the goal of preventing arms trafficking, avoiding the facilitation of human rights abuses, and not exacerbating arms conflicts. On the other side is the economic sustainability of the defence industry, which heavily relies on exports. In this regard, the "cost-effectiveness of a European defence market will depend considerably on the amount of defence and security equipment it can export to third countries outside the EU" (Flemish Peace Institute, 2011, p.37). **Chapter 2** below will further explore the economic drivers of the EU defence industry and its influence in EU policy-making.

Furthermore, the EU architecture outlined in the TFEU and the TUE limits the EU capacity to regulate arms trade. The legal basis for EU action in arms trade and, more generally, in defence industry policies exemplifies the tension between national sovereignty and supranational competence that underlies the entire EU project.

Article 173 TFEU provides a foundation for EU action on industrial policy, and Article 207 TFEU states that the common commercial policy "shall be conducted in the context of the principles and objectives of the Union's external action". However, Article 346(1) TFEU expressly allows each Member State to "take such measures as it considers necessary for the protection of the essential interests of its security which are connected with the production of or trade in arms, munitions and war material", provided these measures do not affect "conditions of competition in the internal market regarding products which are not intended for specifically military purpose".

Member States have utilised the Article 346(1) TFEU exception to limit the EU's involvement in arms exports. However, this prerogative has been interpreted narrowly in the case law of the European Court of Justice, which has clarified that "Article 346 is neither an automatic exclusion of defence from EU law, nor a provision limiting EU competence" (Randazzo, V., 2014, p.2). Similarly, in 2006, the European Commission issued an interpretative communication on the application of Article 346(1) TFEU in the field of defence procurement to prevent Member States from misusing this defence and security prerogative, aiming to "ensure that the derogation remains an exception limited to cases where Member States have no other choice than to protect their security interests nationally".

In any event, to this date, decisions in the defence and security field rely on cooperation among Member States under the guidance of the EU. This scenario undermines the coherence

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<sup>10</sup> In the EU context, the term "export" refers to transfers to non-EU countries, thereby excluding intra-EU transfers.

and dynamism of EU defence industry policies, as well as its broader foreign policy objectives, a subject I will delve into further in **Chapter 3**.

## **2.2.2. The EU Common Position**

### **2.2.2.1. Content**

In 2008, the Council replaced the 1998 EU Code of Conduct on Arms Exports with the EU Common Position. Contrary to the Code of Conduct, the EU Common Position is a legal instrument that requires Member States to ensure that their domestic laws and policies are aligned with the criteria set out therein.

As of July 2024, the EU Common Position represents the only norm regulating arms exports at the EU level. However, although the aim of the EU Common position is to "enhance the convergence of the Member States' arms export control policies" (European Parliament, 2024), these policies ultimately remain a matter of national competence.

The EU Common Position is justified by the determination of Member States to "prevent the export of military technology and equipment which might be used for internal repression or international aggression or contribute to regional instability" (Whereas (4)). In this regard, it establishes minimum standards for Member States to assess the export licence applications made to them for items on the EU Common Military List<sup>11</sup>. In particular, Member States shall consider, on a case-by-case basis, the following eight criteria (Article 2):

- **Criterion One:** Respect for the international obligations and commitments of Member States, in particular UNSC and EU sanctions, agreements on non-proliferation and other international obligations.
- **Criterion Two:** Respect for human rights and IHL in the country of final destination.
- **Criterion Three:** Existence of tensions or armed conflicts in the country of final destination.
- **Criterion Four:** Preservation of regional peace, security and stability.
- **Criterion Five:** National security of the Member States and allied countries.
- **Criterion Six:** Behaviour of the buyer country with regard to the international community, terrorism and international law.

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<sup>11</sup> The EU Common Military List contains a detailed catalogue of equipment and technology subject to the EU Common Position, updated annually. As of July 2024, the current EU Common Military List is established in the Common Military List of the European Union adopted by the Council on 19 February 2024.

- **Criterion Seven:** Existence of a risk that the military technology or equipment will be diverted or re-exported under undesirable conditions.
- **Criterion Eight:** Compatibility of the exports of the military technology or equipment with the technical and economic capacity of the recipient.

In making this assessment, Member States shall only consider "reliable prior knowledge of end use in the country of final destination" and take account of "the risk that the finished product might be diverted or exported to an undesirable end user" (Article 5). Additionally, economic, social, commercial and industrial interests "shall not affect the application of the above criteria" (Article 10). Despite these provisions, "the decision to transfer or deny the transfer of any military technology or equipment shall remain at the national discretion of each Member State" (Article 4.2).

Furthermore, the EU Common Position establishes mechanisms for information sharing (Article 4.1) and reporting (Article 8) relating to arms export licences, promoting transparency and cooperation among Member States.

#### **2.2.2.2. Critical analysis**

From a human rights perspective, the primary criticism to the EU Common Position involves the lack of specificity of the criteria outlined in Article 2. While some criteria are fully objective (e.g., the existence of a UNSC or EU arms embargo), others require individual assessments by each Member State. This leaves room for varying interpretations and inconsistencies in the application of the EU Common Position, similar to the issues seen with the ATT (see **section 2.1.2.1** above).

Notably, concerning Criterion 2 (respect for human rights and IHL), each Member State shall assess the recipient country's "attitude towards relevant principles" established by IHRL and IHL (EU Common Position, Article 2.2). This implies that, even if there are credible or proven allegations of the recipient breaching IHRL or IHL norms, each exporting state may conclude that such breaches do not amount to an attitude of disrespect toward IHRL or IHL in general. Consequently, the threshold imposed by this criterion is less stringent than that of Article 7(1) ATT.

Furthermore, Member States are only required to deny an export licence if there is a "clear risk" that the exported goods "might be used" for internal repression or in the commission of serious violations of IHL. This concept is similar to the "overriding risk" principle found in

Article 7(3) ATT. Consequently, the EU Common Position would not oblige to deny an export of military equipment to an IHL-breaching recipient if there is not a "clear risk", in the view of the exporting country, that such specific equipment will be used to violate IHL. In practical terms, the margin of discretion allowed by the norm is wide enough to permit the transfer of arms from the EU to countries involved in IHRL and IHL violations, relying on the political will of each Member State for a consistent application of the principles embedded in the EU Common Position.

To reduce this ambiguity, the Council endorsed a User's Guide in 2015. Regarding Criterion 2, the User's Guide recommends Member States answer to the following questions within their assessment, and consider denying the export licence if the answer is affirmative (para 2.11):

- Have violations been committed by any actor for which the State is responsible (including the armed forces)?
- Has the recipient country failed to take action to prevent and suppress violations committed by its nationals or to investigate violations allegedly committed by its nationals?

Moreover, the User's Guide clarifies that Criterion 5 (National security of the Member States and allied countries) "cannot affect consideration of the criteria on respect for human rights and on regional peace, security and stability" (para 5.7).

Nevertheless, as noted by the Friedrich-Ebert-Stiftung (2019, p.5), "the User's Guide remains a recommendation and until today the EU Common Position, taken together with the User's Guide, has not been effective in guaranteeing consistent licensing decisions among Member States of the European Union".

Overall, as discussed in **section 2.1.2.1** above in the context of the ATT, the EU Common Position has failed to effectively prevent transfers of weapons from Member States to some countries involved in serious IHL and IHRL violations. Additionally, critics argue that the EU Common Position has not succeeded in harmonising domestic arms export policies and has "not forced any changes in domestic decision making about what and where arms should be exported" (Flemish Peace Institute, 2011, p.45).

### **2.2.2.3. Common criticisms and proposals for improvement**

Long-standing proposals to improve the EU arms export control framework include incorporating governance and democracy into arms export criteria, creating a role for the EU

delegations in this process, and enhancing public and parliamentary oversight (Bromley, M., 2012, pp.14-16), as well as improving the quality and quantity of data exchanges on arms exports to facilitate a unified interpretation of the EU Common Position among Member States (Flemish Peace Institute, 2011, p.45).

Focusing on the application of the norm by Member States, the WGBHR (2022, p.7) recommended that they publicly communicate information about risk assessments in export licence approval decisions, establish independent oversight of arms transfers through parliamentary commissions, national human rights institutions and other independent mechanisms, and grant legal standing to victims of human rights violations originating in the arms sector and human rights CSOs to challenge export licences in administrative courts and to join civil and criminal legal actions against arms companies.

On the occasion of the 2024 periodic review of the EU Common Position, SaferWorld (2023) identified several areas needing improvement:

- Preventing national security concerns from overriding the EU Common Position criteria and ensuring rigorous scrutiny in exports of jointly financed and manufactured items. It is recommended to (1) enhance joint and equal decision-making processes, applying all the EU Common Position criteria uniformly; and (2) prepare and periodically update lists of *controversial* and *non-controversial* prospective non-EU buyers to facilitate consistent evaluation and decision-making.
- Aligning more closely the EU Common Position with Article 7 ATT. It is recommended to (1) mirror the reference to IHRL established in Article 7(1) of the ATT; (2) incorporate the concept of *facilitation* of serious violations; and (3) explicitly reference the risk of gender-based violence. Additionally, it is recommended to incorporate criteria related to the absence of serious corruption and adherence to certain standards of governance in the recipient country.
- Updating the EU Common Position to include standards and guidance for implementing post-shipment controls and on-site inspections. Other commentators share the proposal (Heau, L, 2024).
- Enhancing transparency by requiring Member States to report the value of delivered exports by destination. Additionally, states should publish detailed information on licence

denials -following the standard of The Netherlands- and the deliberations of the Working Party on Conventional Arms Exports<sup>12</sup>.

Implementing these recommendations would strengthen the EU arms export system, reducing transfers of weapons to countries where they might contribute to or facilitate violations of IHL and IHRL. However, moving in this direction faces two major challenges outlined **section 2.1.1**: the EU defence industry's reliance on exports for economic viability, and the desire of Member States to retain arms trade -and foreign policy more broadly- as a matter of national competence. I further explore the first challenge in **Chapter 2**, and address the tension between multilateralism and nationalism in **Chapter 3**.

### **2.2.3. Directive 2009/43/EC and Regulation (EU) 2021/821**

#### **2.2.3.1. Directive 2009/43/EC**

In 2009, the European Parliament and the Council approved Directive 2009/43/EC. This directive aims to reduce fragmentation in the EU defence market by simplifying procedures and harmonising domestic rules governing the transfer of defence-related products within the EU. By doing so, it aims to enhance the competitiveness of the EU's defence industry (see **section 4.2.3** below).

Directive 2009/43/EC reduces authorisation requirements for intra-EU transfers (Article 4.2), while acknowledging that Member States can impose restrictions on re-exports to non-EU countries based on "the risk for the preservation of human rights, peace, security and stability created by the transfer", and can require end-use assurances (Article 4.6).

Moreover, under Directive 2009/43/EC, Member States are obligated to ensure that suppliers under their jurisdiction maintain detailed records of their transfers (Articles 4.3 and 4.4); and inform recipients of the conditions of the licence (Article 8). Similarly, they must ensure that recipients are responsible for adhering to the export limitations of the products they receive (Article 10).

Directive 2009/43/EC aims to strike a delicate balance. It seeks to streamline administrative procedures to unify the EU defence market and reduce bureaucratic burdens. At the same time, it emphasises the importance of maintaining transparency and controls to prevent defence-related products from posing risks to human rights, peace, and security. This balance

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<sup>12</sup> The Working Party on Conventional Arms Exports is a subgroup of the preparatory body known as Working Party on Non-Proliferation and Arms Exports, in which Member States coordinate EU positions in international fora and share information about conventional arms export controls.

is particularly crucial given the diverse policies and resources across Member States concerning arms control.

While some commentators argue that Directive 2009/43/EC will strengthen transparency, "since all Member States will be obliged to introduce harmonised licensing systems, while all suppliers of defence-related requirements will have to apply harmonised reporting requirements" (Ingles, H., 2012, p.65), others have highlighted that this liberalisation may undermine the effectiveness of each others' export control policies, concluding that "while the economic efficiency hoped for from this directive could hardly be opposed (and indeed it stimulates more harmonisation), more free trade within the EU should be backed by common controls at the outer borders" (Depauw, S., 2012, p.73-74).

### **2.2.3.2. Regulation (EU) 2021/821**

In 2021, the European Parliament and the Council approved Regulation (EU) 2021/821, recasting the existing Council Regulation (EC) No 428/2009. This regulation establishes an EU regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items of dual-use items, which are defined as those that "can be used for both civil and military purposes, and includes items which can be used for the design, development, production or use of nuclear, chemical or biological weapons or their means of delivery" (Article 2(1)). Contrary to the EU Common Position, Regulation (EU) 2021/821 is directly applicable throughout the EU, although some of its provisions require domestic implementation.

Regulation (EU) 2021/821 mandates authorisations for the export of dual-use items that meet specific criteria: (1) items listed in Annex I, which is periodically amended<sup>13</sup> (Article 3.1); (2) items related with chemical, biological or nuclear weapons (Article 4.1(a)); (3) items intended for military end-use in a country subject to arms embargoes (Article 4.1(b)); and (4)

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<sup>13</sup> Dual-use items include, among others:

- nuclear materials, facilities and equipment;
- special materials and related equipment;
- materials processing;
- electronics;
- computers;
- telecommunications and information security;
- sensors and lasers;
- navigation and avionics;
- marine; and
- aerospace and propulsion systems.

components of military items already exported from a Member State without the necessary authorisation (Article 4.1(c)).

In addition to these criteria, Regulation (EU) 2021/821 requires authorisations for:

- exporting non-listed cybersurveillance items if the exporter has been informed by the competent authority that such items may be used in connection with internal repression and/or the commission of serious violations of IHRL or IHL (Article 5.1); or if an exporter becomes "aware" of such potential uses through due diligence findings, and after informing the competent authority, this decided to require an export authorisation (Article 5.2);
- exporting non-listed dual-use items for reasons of public security or for human rights considerations (Article 9).
- exporting non-listed dual-use items if: (i) another Member State requires an authorization for the export of such items; and (ii) the exporter has been informed by the competent authority that the items are or may be intended for uses of concern with respect to public security, or to human rights considerations (Article 10); and
- transferring dual-use items listed in Annex IV, such as stealth technology and strategic control, to other Member States (Article 11.1), meaning that any other dual-use items can be traded freely within the EU.

More broadly, Regulation (EU) 2021/821 establishes common export rules, harmonising assessment criteria and types of authorisations across Member States (Articles 12 to 16). It also regulates the provision of brokering services of dual-use items (Article 6), the transit of non-EU listed dual-use items (Article 7), and the provision of technical assistance related to dual-use items (Article 8).

Regulation (EU) 2021/821 mandates detailed information and record-keeping obligations for exporters. Specifically, exporters applying for global export authorisations must implement internal compliance programs that include due diligence measures to assess risks related to the export of items to end-users and end-uses (Article 12.4). However, this due diligence obligation does not apply to other types of export licences regulated under the Regulation, such as individual export authorisations, and may be exempted by competent authorities.

The European Commission views EU export controls for dual-use items as a "key tool for international peace and security as well as the protection of human rights" (European

Commission, 2024, p.2). Nevertheless, Regulation (EU) 2021/821 explicitly aims to balance "responsible practices" with "the global competitiveness of exporters of dual-use items" (Recital 3).

Regulation (EU) 2021/821 has faced criticism for not fully unifying the regulatory landscape within the EU —leaving room for divergent national requirements—, failing to incorporate a "human security element" into export controls, and inadequately addressing the risks posed by emerging technologies (Klauri, C., Helder, J. & Wolf, K.J., 2021). These critics argue that it remains uncertain whether this framework is "fit for purpose in addressing geopolitical shifts, the aggressive expansion of influence by some state actors and the corresponding focus on national security by those who are impacted by this".

Furthermore, Reporters without Borders (2021) criticise the vagueness of terms such as "cyber-surveillance technology" and the insufficient transparency obligations in Regulation (EU) 2021/821, rendering this framework insufficient to deal with the risks posed by technologies such as the spyware Pegasus. To bridge existing gaps, this NGO proposes enhancing the engagement of civil society with the EU and Member States, establishing verifiable human rights due diligence obligations for companies, setting effective reporting mechanisms ensuring transparency and accountability, and enabling competent authorities further powers to restrict exports of emerging technologies not yet officially listed as controlled goods.

In 2024, prompted by Russia's war of aggression against Ukraine, the European Commission issued a White Paper on Export Controls. The paper underscored critical issues arising from the existing regulation, including the lack of a cohesive approach to the EU's security and trade policy objectives in export control (para. 4.2) and the absence of a unified EU stance on the global stage (para. 4.3) —both broader challenges discussed in **Chapter 3**—. To tackle these issues, the European Commission proposed strengthening uniform controls within the EU (para. 5.1) and enhancing political and technical coordination on export controls (paras. 5.2 and 5.3) —hence, tacitly acknowledging the partial failure of Regulation (EU) 2021/821—. This will be one of the tasks for the incoming European Commission and Parliament from 2024.

#### **2.2.4. EU arms embargoes**

In addition to the regulatory framework outlined above, the EU can impose arms embargoes as part of its sanctions *toolkit*, a key instrument of the CFSP. The purposes of these actions are

to "uphold the international security order, while also defending human rights and democracy standards by encouraging targeted countries to change their behaviour" (European Parliament, 2024).

Most CFSP arms embargoes are adopted in a three-step procedure. First, the Council makes a unanimous decision under Article 29 TEU based on a proposal of the EU High Representative. Second, the Council adopts a regulation by qualified majority decision, detailing provisions for implementation. Third, national rules are established to implement the arms embargoes within the competences of Member States.

While some sanctions programmes implement or mirror restrictive measures adopted by the UNSC (see **Annex 1**), the EU also imposes autonomous arms embargoes with no UNSC counterpart, such as those on China, Russia and Venezuela, which are usually aligned with measures of the USA and other allied countries. **Annex 1** summarises all the arms embargoes against states imposed by the EU that remain in effect as of July 2024.

An examination of these arms embargoes reveals different standards in target choices, with some countries engaged in armed conflicts and facing credible allegations of severe violations of IHL and IHRL notably omitted. For instance, although humanitarian and human rights organisations have called on states to suspend arms transfers to Saudi Arabia and its allies involved in the armed conflict in Yemen (Amnesty International, 2019), and to Israel and Palestinian armed groups (Save the Children, 2024) on the basis of credible allegations of severe IHL and IHRL violations, no EU arms embargo has been imposed on these countries to date —and export licences have not been denied by all Member States based on the ATT and/or the EU Common Position either—.

This is partly attributed to an adoption procedure requiring unanimous decisions by the Council, effectively granting each Member State a veto right, and by the influence exerted by the USA/NATO policies. However, it also underscores a broader issue of inconsistency in promoting human rights and democracy within EU external actions. Broadly speaking, the adoption and implementation of sanctions by the EU in the Middle East and North Africa has been labelled as "incoherent, conflictual and ill-timed" (Colombo, S. 2021, p.18).

### **3. Chapter 2 - Economic and corporate dimension**

In this chapter, I delve into the economic and corporate aspects of the EU arms industry, aiming to understand its key drivers and influences in decision-making processes. I also explore the role of human rights within major arms companies and aim to assess how this industry influences the shaping of EU defence and security policies and legislation.

The first section of the chapter analyses macroeconomic industry data to gauge its overall impact.

The second section focuses on the seven largest EU arms companies, examining their ownership and control structures, key products, market presence, and adherence to human rights standards. It also considers the potential implications of the CSDDD on these companies.

The third and final section addresses the lobbying activities of this industry and its interactions with the EU decision-making processes.

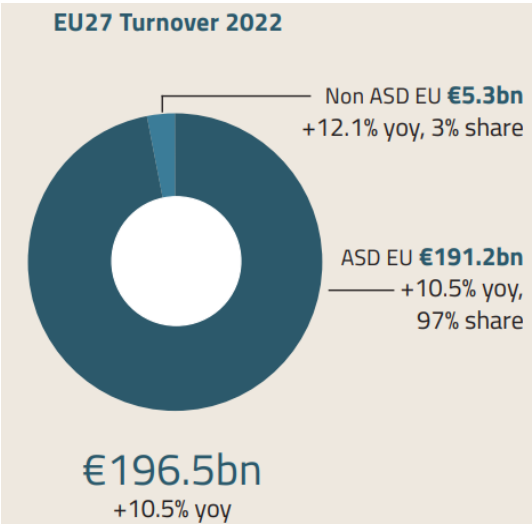
#### **3.1. Macroeconomic impact of the EU arms industry**

##### **3.1.1. Turnover, exports and employment**

Based on data provided by the Stockholm International Peace Research Institute (SIPRI), the European Commission estimated that in 2021, the European Defence Technological and Industrial Base (EDTIB) generated an annual turnover of €70 billion, had an export volume exceeding €28 billion, and employed around 500,000 people (European Commission, 2024, Box 2). In addition to these direct jobs, the EU's defence industry supports approximately 1,200,000 jobs indirectly across the EU (European Commission, 2019, p.3).

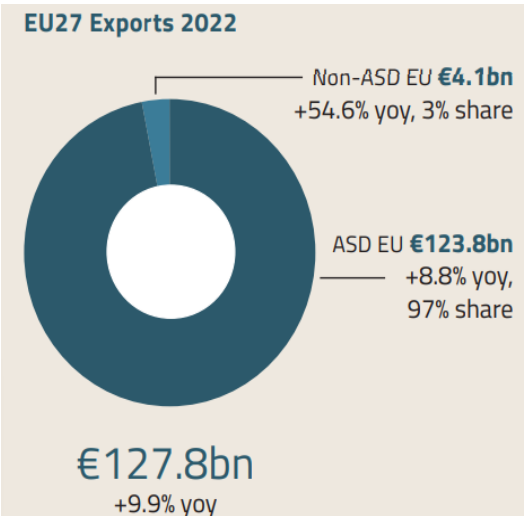
The AeroSpace and Defence Industries Association of Europe (ASD), Europe's largest trade association in the aerospace, defence, and security sectors, representing over 4,000 companies and accounting for 97% of the industry's turnover, provides consolidated data on these sectors (ASD, 2023, p.1). Per ASD, in 2022, the EU aerospace and defence industry achieved an aggregate turnover of €196.5 billion, marking a 10.5% annual growth rate. Employment in the sector reached 704,000 jobs, reflecting a 4.4% annual increase. The industry's exports, including intra-EU transfers, amounted to €128 billion, showing a 9.9% annual growth.

Figure 1 - Turnover of the EU aerospace and defence industry (2022)



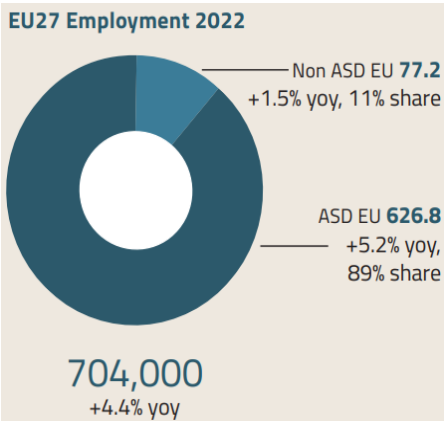
Source: ASD (2023, p.1)

Figure 2 - Exports of the EU aerospace and defence industry (2022)



Source: ASD (2023, p.1)

**Figure 3 - Employment in the EU aerospace and defence industry (2022)**



Source: ASD (2023, p.1)

According to ASD, the strong growth in all indicators in 2022 reflects "rising defence budgets across the continent, driven by the support to Ukraine against the Russian aggression, and the concurrent re-evaluation of Europe's defence readiness, prompting a focus on enhancing its own capabilities" (ASD, 2023, p.10).

From this consolidated data for the aerospace and defence industries, the European Defence Agency (EDA) estimates that the annual turnover of the EU defence sector alone is nearly €84 billion. Furthermore, this sector supports over 196,000 high-skilled jobs directly and more than 315,000 jobs indirectly (European Commission, 2022, para. 3).

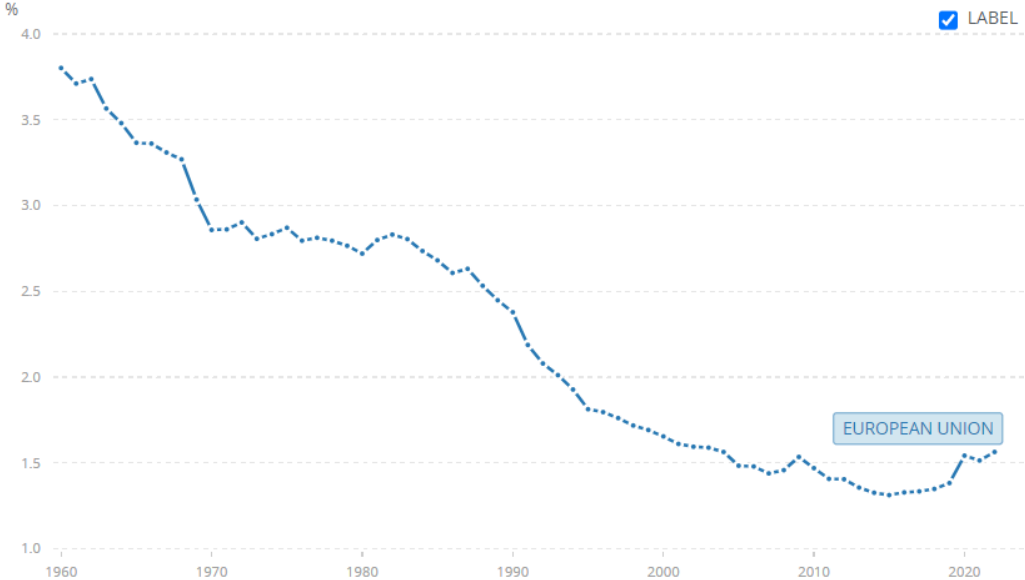
The arms industry's contribution to generating high-quality jobs significantly influences governmental decisions. This economic driver often conflicts with other considerations, such as the protection of human rights. A notable example of this tension occurred in 2018 when the Spanish shipbuilder Navantia signed a contract with Saudi Arabia for the delivery of several warships. This deal caused disagreements within the left-wing political party Podemos. While the party's national leadership expressed concern about the possible use of the ships in the Yemen war, the mayor of Cadiz—a city with a high unemployment rate where the shipyards are located—justified the contract due to the need to maintain jobs in the city, arguing, "if we do not build the ships, others will" (Jimenez, F., 2018, 7 September).

**3.1.2. Public expenditure**

On the demand side, military expenditure as a percentage of gross domestic product (GDP) by Member States has steadily declined since the height of the Cold War. However, there has

been an increase since the beginning of the 2020s. The table below presents the Member States' military expenditure as a percentage of GDP from 1960 to 2022.

**Figure 4 - Member States' military expenditure as a percentage of GDP (1960-2022)**



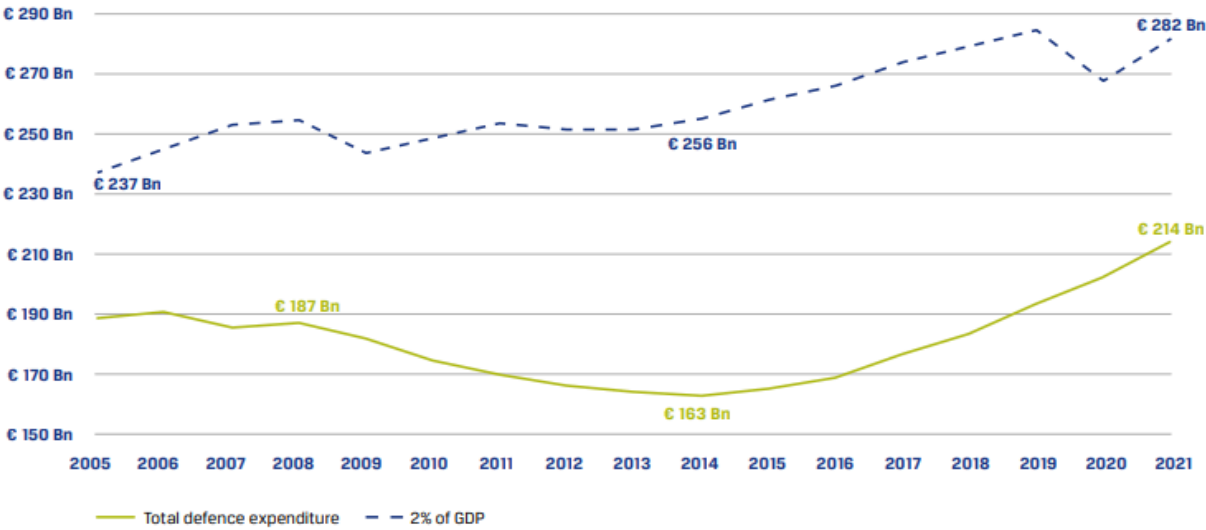
Source: The World Bank, based on SIPRI, Yearbook: Armaments, Disarmament and International Security (2022)

This decline can be attributed to several factors: a relatively peaceful context, especially since the end of the Cold War; reliance on the USA and NATO allies for security; and the need to divert public resources to civilian purposes such as maintaining welfare states.

However, this has created a significant gap in the EU's defence capabilities. In this regard, in 2022, the European Defence Agency (EDA) calculated a deficit of €1.1 trillion in the aggregate military expenditure of NATO's EU Member States between 2006 and 2020, relative to NATO's guideline of committing 2% of GDP to defence spending. This shortfall includes approximately €200 billion for defence investment (European Commission, 2022, para. 2).

The table below presents the Member States' total defence expenditure in relation to the 2% of GDP guideline from 2005 to 2021. It is noteworthy that the gap began to narrow starting in 2014, the year Russia invaded Crimea. This table does not display the increase in expenditure following the full-scale invasion of Ukraine in 2022.

**Figure 5 - Member States' total defence expenditure compared to NATO's 2% of GDP guideline (2005-2021)**



Source: European Defence Agency (2022)

Furthermore, it must be noted that the majority of defence acquisitions by Member States are made from non-EU countries. In 2022-2023, 78% of these acquisitions were from outside the EU, with the USA alone accounting for 63% of this share (Maulny, J-P., 2023, p.15).

**3.2. Analysis of the largest arms companies in the EU**

U.S. President Dwight Eisenhower famously warned about the "acquisition of unwarranted influence [...] by the military-industrial complex" in his farewell speech" (Eisenhower, D., 1961, 17 January). Understanding the influences on and from the EU arms industry will be essential to this thesis.

This analysis requires an examination of the companies operating in the EU arms industry, focusing on their ownership and control structures, and main markets and products, to draw conclusions regarding their primary drivers for manufacturing and marketing decisions. Furthermore, assessing the extent to which these companies adhere to and implement human rights standards such as the UNGPs helps to understand the consideration of human rights in their internal procedures.

For these purposes, I have selected a sample of the largest seven companies in terms of arms revenue that illustrate the dynamics of the major players in the industry. According to the SIPRI (2022), the top seven EU-domiciled companies by arms revenue (rounding to the nearest US\$10 million) are as follows:

**Table 2** - Largest EU arms companies by arms revenue (2022)

<b>World ranking (2022)</b>	<b>Company</b>	<b>Country</b>	<b>Arms revenue in US\$ millions (2022)</b>	<b>Arms revenue as % of total revenue (2022)</b>
13	Leonardo	Italy	12,470	83%
14	Airbus	Trans-European <sup>14</sup>	12,090	20%
17	Thales	France	9,420	51%
23	Dassault Aviation	France	5,070	70%
28	Rheinmetall	Germany	4,550	67%
29	Naval Group	France	4,530	99%
32	MBDA	Trans-European	4,380	99%

Source: SIPRI (2023)

The index published by the SIPRI indicates that the presence of EU companies, particularly French ones, in the world's top 35 is relevant, although they trail behind the leading US and Chinese companies, which occupy 10 of the top 12 positions.

However, it must be noted that in addition to large companies, there are "approximately 2,500 small and medium-sized enterprises (SMEs) operating in the European defence sector [which] are a critically important part of supply chains" (EU Defence Industry and Space, 2022).

### **3.2.1. Ownership and control structures and business drivers**

#### **3.2.1.1. Leonardo**

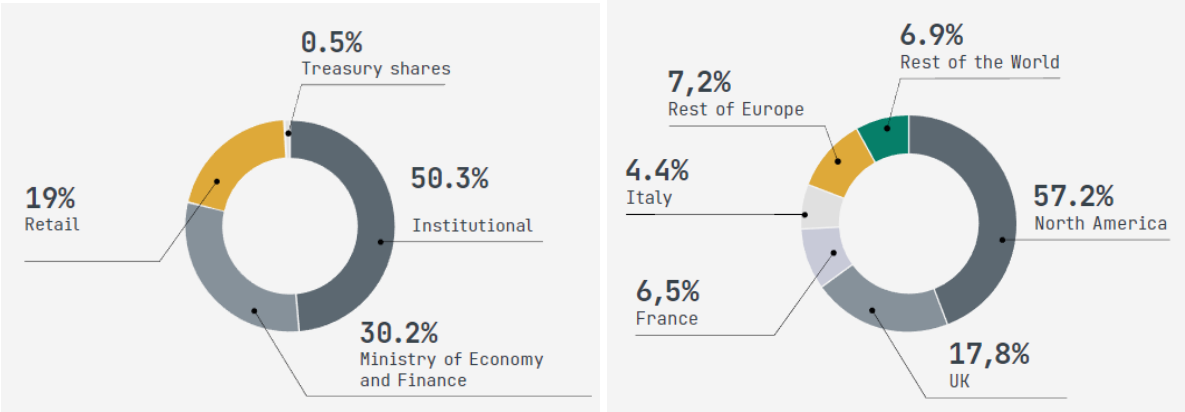
Leonardo S.p.A. (Leonardo) is an Italian company listed on the Milan Stock Exchange (Leonardo, 2024). As of July 2024, its main shareholder, and the only one owning a significant holding<sup>15</sup> (30.2% of the total share capital), is the Italian Ministry of Economy and Finance. However, there is a substantially free float, predominantly in the hands of foreign institutional investors.

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<sup>14</sup> This term refers to companies whose ownership and control structures are located in more than one European country.

<sup>15</sup> Within the meaning of article 120 of the Italian Single Finance Text (*Decreto legislativo, 24/02/1998 n° 58*).

**Figure 6** - Leonardo shareholdings base by type and jurisdiction as of 13 July 2024



Source: Leonardo (2024)

Although Leonardo's shares are freely traded in the stock exchange, the acquisition of any significant holding is subject to Decree-law no. 21 of 15 March 2012 (*Decreto-Legge 15 marzo 2012, n. 21*), which grants the Italian Council of Ministers special powers over companies in the defence and national security sectors. These powers may be exercised in the event of a threat of serious damage to the essential interests of defence and national security, and include vetoing changes in ownership or control of companies such as Leonardo. Among the criteria for exercising a veto, as expressly mentioned in the decree, are the official position of the EU and the existence of links between the potential buyer "and third countries which do not recognise the principles of democracy or the rule of law, which do not comply with the rules of international law or who have engaged in risky behaviour towards the international community" (*Decreto-Legge 15 marzo 2012, n. 21, Art. 3.(b)*).

Additionally, nine out of the 12 members of Leonardo's board of directors are independent directors<sup>16</sup> (Leonardo, 2024), granting the company a degree of autonomy in decision-making processes, except for those material decisions that are subject to the resolutions of the shareholders' meeting.

Although the Italian state exerts significant influence over Leonardo through its shareholding and special powers granted by domestic legislation, this company remains predominantly privately owned. Leonardo is governed by a largely independent board of directors, with various institutional investors, particularly from the US, holding interests in it.

<sup>16</sup> Pursuant to the Italian Code of Corporate Governance (*Codice di Corporate Governance*), independent directors are those non-executive directors who "do not, nor have they recently, engaged in any relationships, even indirectly, with the company or with entities related to it that could compromise their current independence of judgement".

As calculated by SIPRI, 83% of Leonardo's revenues in 2022 were generated by its arms business. Leonardo segments its business into the following sectors (Leonardo, 2024, p.16):

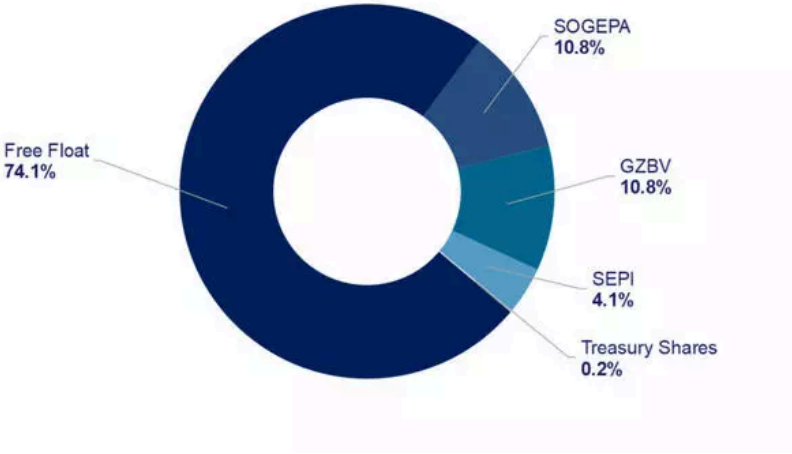
- **Defence electronics and security:** in 2023, the largest sales were to Italy, the UK, the USA, Germany, Israel, Canada and France.
- **Helicopters:** Leonardo manufactures helicopters for defence and passenger transport purposes, including multi-role helicopters with combat applications (AW109, AW139, AW149 AW189 and AW169 models). In 2023, Italy, the UK, Poland, the USA and Switzerland were among the governments placing major orders.
- **Aircrafts:** Leonardo's best-selling military aircraft include the Eurofighter Typhoon, F-35A, F-35B, and Tempest. Additionally, it has participated in various military programmes in collaboration with other companies. In 2023, the most significant orders came from Italy.
- **Aerostructures:** this segment includes the supply of large structural components for commercial aviation programmes.
- **Space:** this segment includes the manufacturing of space and ground systems, launch systems, and satellite operations services.

Leonardo's integrated annual report reveals that 15% of its 2023 revenues originated from countries classified in bands E and F of Transparency International's Government Defence Anti-Corruption Index (Leonardo, 2024, p.393). These revenues primarily stemmed from contracts with Kuwait (Eurofighter Typhoons) and Qatar (NH90 helicopters) (Leonardo, 2024, p.393).

### **3.2.1.2. Airbus**

Airbus SE (Airbus) is a Dutch-incorporated company listed on the stock exchanges of Paris, Frankfurt and Spain (Madrid, Bilbao, Barcelona, and Valencia) (Airbus, 2024). As of July 2024, it is predominantly owned (74.1%) by private retail and institutional investors, none of whom hold a significant individual stake. Alongside this free float, the French, German, and Spanish states maintain a relevant ownership in Airbus through their respective holding companies: SOGEP, GZV and SEPI (Airbus, 2024).

**Figure 7 - Airbus shareholdings base as of 13 July 2024**



Source: Airbus (2024)

In accordance with its bylaws and applicable laws, the day-to-day management of Airbus is delegated to its CEO (Airbus, 2024). The board of directors retains the authority to approve the overall strategy and operational business plans, as well as decisions regarding certain investments, divestments, and sales, among other responsibilities (Airbus, 2024). In this regard, 11 out of the 12 members of Airbus' board of directors are considered independent directors (Airbus, 2024), ensuring the company's operational independence, despite France, Germany, and Spain holding significant influence at shareholders' meetings.

According to SIPRI, Airbus' defence division accounted for only 20% of its total revenues in 2022. Its defence portfolio encompasses a range of products, including the Eurofighter Typhoon; the A400M, C295 and CN235 airlifters; the A330 Multi-Role Tanker Transport; the NH90 helicopter, and several unmanned aerial systems (UAS) (Airbus, 2024).

Airbus plays a crucial role in implementing EU common defence policies. Notably, it holds a prime contractor role for Europe's Future Combat Air System, a network of connected platforms including piloted fighters and unmanned remote carriers. Furthermore, Airbus is involved in the development of the Multi-Domain Combat Cloud and the implementation of the Network for the Sky (Airbus, 2024).

However, Airbus also conducts business with countries outside of the EU. Its backlog of defence orders and deliveries for military aircraft as of 31 May 2024, shows countries such as Indonesia (176 total orders), Saudi Arabia (86), USA (78), and India (56) among its main

clients. The table below displays the total breakdown per geographical area -including all types of military aircraft.

**Table 3 - Airbus military aircraft orders and deliveries by region as of 31 May 2024**

<b>Region</b>	<b>Orders</b>	<b>Deliveries</b>	<b>In operation</b>
Africa (Sub Saharan)	100	97	71
Asia & Pacific	351	283	171
CIS	18	15	15
Europe	1098	966	831
Middle East & North Africa	192	173	159
North America	105	96	90
Latin America and Caribbean	152	152	107
Lessor	2	2	2
Undisclosed	7	5	5
<b>Total</b>	<b>2025</b>	<b>1789</b>	<b>1451</b>

Source: Airbus (2024)

**3.2.1.3. Thales**

Thales S.A. (Thales) is a French company listed on the Paris Stock Exchange. As of 31 December 2023, major shareholders with significant stakes in Thales include the French state (36.09%) and the arms company Dassault Aviation (29.92%) - refer to **section 3.2.1.4** below. Employees collectively hold 3.84% of the shares, while private investors own an aggregate of 30.15% as free float (Thales, 2024).

Furthermore, the controlling shareholders of Thales have representation on its board of directors. Dassault Aviation and the French state have each nominated four members of the board, out of a total of 16 members. The remaining members of the board include the CEO, four independent directors, and three directors representing employee shareholders. Therefore, France and Dassault Aviation (in turn, controlled by the Dassault family) have joint control over the strategic decisions of Thales (Thales, 2024). Moreover, in accordance with Decree N° 97-190 of 4 March 1997 in application of Article 10 of Law N° 86-912 of 6 August 1986, the French state holds a special share (*golden share*). This share grants it certain prerogatives, including the right of prior approval for any increase in the holding of shares in

Thales beyond a threshold of 10% or a multiple of thereof of the company's capital or voting rights.

According to SIPRI, Thales' defence division accounted for 51% of its total revenues in 2022. Thales focuses on electrical systems and devices. They design, develop and manufacture a comprehensive portfolio of defence products to public and private clients across five key areas (Thales, 2024):

- Communications, command and control systems.
- Mission services and support.
- Protection and mission / combat systems.
- Surveillance, detection and intelligence systems.
- Training and simulation.

Notably, Thales is the leading European company in defence electronics and the global leader in advanced air defence and air C4I systems. Their range of products includes solutions for land, naval and air forces, joint systems, cyber defence solutions, digital military support services, electronic warfare systems, power management systems for military vehicles, urban protection systems, unmanned aerial systems (UAMs), and digital transformation systems (Thales, 2024).

In 2023, Thales' defence and security sales grew 7% from 2022, reaching a total of €9,796 million, and the company recorded €14.1 billion in new orders (Thales, 2024). Although the majority of Thales' orders in 2023 came from NATO clients (EU Member States, UK, and North America), significant orders were also received from Indonesia (for radars, air command and control systems, and aircrafts), and the UAE (for simulation systems). Thales reported a total order intake from emerging markets amounting to €4,449 million in 2023 (Thales, 2024).

#### **3.2.1.4. Dassault Aviation**

Dassault Aviation S.A. (Dassault Aviation) is a privately held French company. As of 8 March 2024, the Dassault family holding (Groupe Industriel Marcel Dassault S.A.) maintains control of the company with 79.43% of the voting rights. Airbus (refer to **section 3.2.2.2** above) holds a significant portion, with 6.33% of the voting rights, while the remaining shares are held by minority investors (Dassault Aviation, 2024).

Regarding the composition of the board of directors, four out of eight members were nominated by the Dassault family holding, three are independent directors representing the interests of minority investors, and one director represents the employees (Dassault Aviation, 2024). In general terms, the Dassault family exerts a major influence in all the decisions adopted in the company, although they need to consider the position of minority investors to approve strategic decisions.

Dassault Aviation specialises in designing and manufacturing military aircraft and business jets. According to SIPRI data, the military division accounted for 70% of its total turnover in 2022.

The table below presents the export history of Dassault Aviation's most recent aircrafts, including its current flagship product -Rafale- (Dassault Aviation, 2024). Notably, a significant majority of orders originate from non-EU countries.

**Table 4** - Dassault Aviation main military aircraft orders by country as of 31 December 2023

Recipient	Rafale fighter jets (No. orders)	Mirage 2000 multirole aircraft <sup>17</sup>	Alpha Jet fighter jets <sup>18</sup>	Mirage F1 fighter jets <sup>19</sup>
Belgium	✗	✗	✓	✗
Brazil	✗	✓	✗	✗
Cameroon	✗	✗	✓	✗
Croatia	✓ (12)	✗	✗	✗
Ecuador	✗	✗	✗	✓
Egypt	✓ (55)	✓	✓	✗
Gabon	✗	✗	✓	✗
Germany	✗	✗	✓	✗
Greece	✓ (24)	✓	✗	✓
India	✓ (36)	✓	✗	✗
Indonesia	✓ (42)	✗	✗	✗

<sup>17</sup> In operational service since 1984, with a total of 300 exports. However, no breakdown among recipients is provided.

<sup>18</sup> In operational service since 1979, with a total of 328 exports. However, no breakdown among recipients is provided.

<sup>19</sup> In operational service since 1974, with a total of 473 exports. However, no breakdown among recipients is provided.

Iraq	✗	✗	✗	✓
Jordan	✗	✗	✗	✓
Kuwait	✗	✗	✗	✓
Libya	✗	✗	✗	✓
Morocco	✗	✗	✓	✓
Nigeria	✗	✗	✓	✗
Peru	✗	✓	✗	✗
Qatar	✓ (36)	✓	✓	✓
Spain	✗	✗	✗	✓
South Africa	✗	✗	✗	✓
Taiwan	✗	✓	✗	✗
Togo	✗	✗	✓	✗
UAE	✓ (80)	✓	✗	✗

Source: Compiled from Dassault Aviation (2024)

Dassault Aviation is also the prime contractor for the development of nEUROn, the European programme for an unmanned combat air vehicle (UCAV) technology (Dassault Aviation, 2024).

### 3.2.1.5. Rheinmetall

Rheinmetall AG (Rheinmetall) is a German company listed on the Frankfurt Stock Exchange. It is primarily owned by private shareholders and institutional investors, notably from Europe and the USA. The table below displays investors holding more than 3% of the voting rights in the company as of July 2024.

**Table 5** - Rheinmetall significant shareholders (>3%) as of 13 July 2024

Shareholder	Country	Voting rights
BlackRock, Inc.	USA	5.76%
Bank of America Corporation	USA	4.64%
The Goldman Sachs Group,	USA	4.69%

Inc.		
Société Générale S.A.	France	10.97%
The Capital Group Companies, Inc.	USA	4.99%
UBS Group AG	Switzerland	3.83%
FMR LLC	USA	4.99%

Source: Rheinmetall (2024)

Rheinmetall's governing bodies include an executive board composed of three senior managers responsible for managing the company, and a supervisory board consisting of eight shareholders' representatives and eight employees' representatives. The supervisory board advises the executive board and monitors its management activities (Rheinmetall, 2024). Consequently, Rheinmetall enjoys a wide degree of autonomy in their decision-making processes, although the executive board's performance is ultimately subject to the scrutiny of the shareholders' meeting.

According to SIPRI data, defence and security accounted for more than two thirds of Rheinmetall's total turnover in 2022. Rheinmetall's product portfolio includes vehicle systems, weapons and ammunition, and electronic solutions. The company indicates that its strategic markets are the UK, Australia, the USA, Hungary and other Eastern European NATO member states (Rheinmetall, 2024, p.25).

### 3.2.1.6. Naval Group

Naval Group S.A. (Naval Group) is a privately held French company. As of 31 December 2023, it operates as a joint venture between the French state (holding 62.5% of the shares) and Thales (holding 35% of the shares) - refer to **section 3.2.1.3** above. Current and former employees hold the remaining 1.74% (Naval Group, 2024).

Naval Group's board of directors has 18 members, including a State representative. 11 members were nominated by the main shareholders, while six are employee representatives appointed by their peers (Naval Group, 2024). Consequently, although France enjoys significant control over the company's strategic decisions, these need to be agreed with Thales and/or the employees to be approved.

Naval Group's product portfolio includes surface ships (ranging from patrol ships to nuclear aircraft carriers), submarines, systems, services, equipment for both ships and submarines,

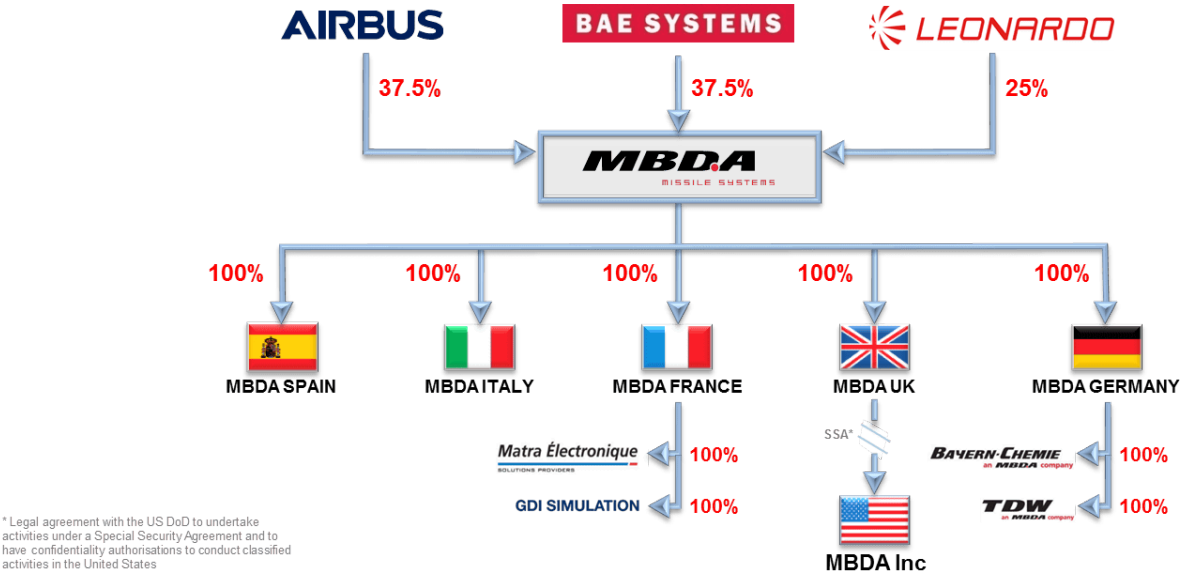
and underwater weapons (Naval Group, 2024). As of 31 December 2023, the company had a backlog of firm contracts amounting to €14.4 billion (Naval Group, 2024, p.4).

Naval Group operates in the following 18 countries (in **bold**, non-EU countries), where it has established subsidiaries, either independently or in partnership with local entities: **Australia**, Belgium, **Brazil**, **Chile**, **Colombia**, **Egypt**, France, Greece, **India**, **Indonesia**, Italy, **Malaysia**, **Mexico**, Netherlands, **Philippines**, **Saudi Arabia**, **Singapore**, and **the UAE** (Naval Group, 2024, p.8). Additionally, Naval Group claims to have 50 navies worldwide as clients, including long-term partnerships with India, Malaysia, Belgium, the Netherlands, Egypt, and Brazil. While a detailed breakdown of clients is not publicly available, it is confirmed that non-EU countries are significant customers of Naval Group (Naval Group, 2024, p.27).

**3.2.1.7. MBDA**

MBDA S.A.S. (MBDA) is a privately held French company. As of July 2024, it is a joint venture among three European leading arms companies: Leonardo, holding 25% of the shares (see section 3.2.1.1), Airbus, holding 37.5% of the shares (see section 3.2.1.2) and the British BAE Systems, which holds the remaining 37.5% (MBDA, 2024).

**Figure 8 - MBDA shareholding base and subsidiaries as of 31 December 2023**



Source: MBDA (2024)

MBDA's board of directors is entirely composed of shareholder's nominees. All major decisions, including strategic bids, contracts, and the company's overall strategy, require

unanimous approval from the board members. The CEO oversees the day-to-day management of MBDA (MBDA, 2024).

MBDA's business is almost entirely focused on the military sector. They design, develop and manufacture a wide range of missile related systems and equipment. Mainly, air-to-air and air-to-surface missile systems, man portable and air-launched anti-armour weapon systems, mine detection and clearance systems, long range ballistic missiles, stealth aircraft, Unmanned Combat Air Vehicles, cruise missiles, and anti-ship missile systems (MDBA, 2024). As of December 2022, the company had a backlog of firm contracts amounting to €22.3 billion (MBDA, 2023, 15 March).

MBDA does not disclose detailed information about its clients. However, it is known that their operations extend beyond the EU. In recent years, countries such as Egypt (Aeromorning, 2021), Saudi Arabia (McNeil, H., 2023), and the UAE (Helou, A., 2023) have placed significant orders to MBDA.

Additionally, MBDA is anticipated to play a crucial role in the European Sky Shield Initiative (ESSI) launched by Germany following the Russian invasion of Ukraine in 2022 (Dubost, O, 2023).

#### **3.2.1.8. Findings**

Our analysis of the seven largest EU arms companies reveals diverse ownership and control structures. While some companies are entirely privately-owned (such as Dassault Aviation controlled by the Dassault family and Rheinmetall by a group of financial investors), others maintain a mix of public and private interests, with states exerting material but not sole influence. Furthermore, four out of the seven companies are listed on stock exchanges, making them subject to the changing influence of private investors—although domestic regulations generally require governmental approval for significant stake acquisitions. Consequently, directors in these companies necessarily place delivering sustainable shareholder value among their main management goals.

Simultaneously, the public sector serves as the primary client for all these companies. In many cases, exports to other countries, including those outside the EU and NATO, constitute a significant portion of their turnover and order backlogs. Furthermore, aside from Airbus, whose core business is civil aviation, the remaining companies analysed exhibit a strong dependence on revenues for the defence and security sectors.

**Table 6** - Summary of ownership structures of the largest EU arms companies (2024)

<b>Company</b>	<b>Listed in the stock exchange</b>	<b>Public sector significant shareholder (% voting rights)</b>	<b>Private sector significant shareholder (% voting rights)</b>
Leonardo	Yes	Italy (30.2%)	No
Airbus	Yes	Germany (10.8%) France (10.8%) Spain (4.1%)	No
Thales	Yes	France (36.09%)	Dassault Aviation (29.92%)
Dassault Aviation	No	No	Dassault family (79.43%) Airbus (6.33%)
Rheinmetall	Yes	No	Several financial investors (see <b>section 3.2.1.5</b> above)
Naval Group	No	France (62.5%)	Thales (35)
MBDA	No	Not directly	Leonardo (25%) Airbus (37.5%) BAE Systems (37.5%)

Source: Compiled based on each company's website information

States often play multiple roles as co-investors, clients, and regulators—especially as grantors of export licences—in these companies. However, these companies are not entirely publicly-owned and are also subject to the interests of industrial and financial private investors seeking returns. Moreover, they are managed by directors whose appointment or resignation depends on both private and public shareholders. Consequently, strategic business decisions may be influenced by national (or EU) interests pursued by public shareholders on one side, and by the financial and market interests sought by private shareholders on the other.

This interplay of roles and interests can lead to potential conflicts of interest and an overbearing influence of private interests in shaping EU defence policies, as detailed in **section 3.3** below.

**3.2.2. Human rights policies**

**3.2.2.1. Human rights standards**

The business and human rights perspective introduces an additional layer of human rights compliance in the arms sector. While the international regulatory framework outlined in

**Chapter 1** emphasises the duties of states, particularly regarding the enactment and implementation of their export regulations, this perspective centres on the obligations of companies to identify, monitor, and address the adverse human rights impacts of their activities and those of their direct partners.

This section provides a comparative analysis of the primary features of the human rights policies of our selected arms companies. It aims to assess the extent to which these companies have implemented internationally recognised human rights standards for corporations, with a focus on the UNGPs.

Below are the comparison criteria used, along with a brief justification, indicating with "✓" those companies that fully comply with the criterion in question, with "—" those that comply partially, and with "✗" those that fail to meet the criterion. I use "NEI" (not enough information) to denote cases where verification of compliance with a specific criterion was not possible. The tables below are the result of my analysis of the sources referenced in Part G (*Corporate documents*) of **Section 9**.

**1. Has the company joined the UN Global Compact?**

The UN Global Compact, a voluntary initiative launched by the UN in 2000, aims to encourage businesses to adopt sustainable and socially responsible policies. Among its Ten Principles, it calls on companies to support and respect the protection of internationally proclaimed human rights (Principle 1) and to ensure they are not complicit in human rights abuses (Principle 2). All the companies analysed, except for MBDA, have joined the UN Global Compact.

**Table 7** - Comparison of implementation of human rights standards among the EU largest arms companies (Criterion 1)

Leonardo	✓	Rheinmetall	✓
Airbus	✓	Naval Group	✓
Thales	✓	MBDA	✗
Dassault Aviation	✓		

**2. Has the company issued a statement of policy expressing its commitment to respect human rights?**

Pursuant to UNGP 16, companies should issue a policy statement to express their commitment to meet their responsibility to respect human rights. All the companies analysed have complied with this recommendation, either by directly issuing a human rights policy statement or by explicitly mentioning the respect for human rights in their codes of ethics or equivalent documents.

**Table 8** - Comparison of implementation of UNGPs among the largest EU arms companies (Criterion 2)

Leonardo	— <sup>20</sup>	Rheinmetall	✓
Airbus	✓	Naval Group	✓
Thales	✓	MBDA	— <sup>21</sup>
Dassault Aviation	— <sup>22</sup>		

**3. Is this commitment approved at the most senior level of the business?**

Pursuant to UNGP 16(a), the policy statement should be approved at the most senior level of the company. In three of the companies, the human rights policy statement was approved by the board of directors or executive board. For MBDA, the policy was approved by the executive committee, but not by the board. There is no public information about the formal approval process for the policy statements of the remaining companies.

**Table 9** - Comparison of implementation of UNGPs among the largest EU arms companies (Criterion 3)

Leonardo	✓	Rheinmetall	✓
Airbus	✓	Naval Group	NEI
Thales	NEI	MBDA	— <sup>23</sup>
Dassault Aviation	NEI		

<sup>20</sup> Leonardo's commitment to respecting human rights is mentioned in passing in its Code of Ethics.

<sup>21</sup> MBDA's commitment to respecting human rights is mentioned in passing in its Code of Ethics.

<sup>22</sup> Dassault Aviation's commitment to respecting human rights is mentioned in passing in its Ethical Charter.

<sup>23</sup> MBDA's Code of Ethics was approved by the company's executive committee.

#### 4. Does the company commit to carry out human rights due diligence (HRDD)?

Pursuant to UNGP 17, companies should conduct HRDD to identify, prevent, mitigate and account for how they address their adverse human rights impacts. This is the core recommendation under the UNGPs, as it entails mainstreaming human rights within the company's organisation and processes.

All the companies analysed, except for Naval Group have publicly committed to conducting HRDD. In some cases, this commitment is only made by reference to compliance with domestic laws imposing such obligations, such as French Law No. 2017-399 dated March 27, 2017 regarding corporate duty of care. Additionally, MBDA suggests this commitment primarily in relation to their suppliers, but there is no public information about the HRDD conducted on their own activities or on other stakeholders, particularly clients.

**Table 10** - Comparison of implementation of UNGPs among the largest EU arms companies (Criterion 4)

Leonardo	✓	Rheinmetall	✓
Airbus	✓	Naval Group	✗
Thales	— <sup>24</sup>	MBDA	— <sup>25</sup>
Dassault Aviation	— <sup>26</sup>		

#### 5. Does the company evidence how its due diligence process involves meaningful consultation with potentially affected groups and other relevant stakeholders?

Pursuant to UNGP 18(b), HRDD processes should involve meaningful consultation with potentially affected groups and other relevant stakeholders. Only two of the companies analysed explicitly mention stakeholder engagement as an essential part of their HRDD processes in their human rights policies. However, based on publicly available information, I have not been able to verify the extent to which such consultation is meaningful.

<sup>24</sup> There are no specific mentions to HRDD in Thales' Code of Ethics. However, they explicitly confirm compliance with French Law No. 2017-399 dated 27 March 2017 regarding corporate duty of care. Thales has developed a Duty of Care Plan (Thales, 2023).

<sup>25</sup> MBDA issued a Supply Chain Business Ethics Procedure in 2017. However, it does not specifically mention HRDD.

<sup>26</sup> There are no specific mentions to HRDD in Dassault Aviation's Ethical Charter. However, they explicitly confirm compliance with French Law No. 2017-399 dated March 27, 2017 regarding corporate duty of care. Dassault Aviation has developed a Duty of Care Plan (Dassault Aviation, 2023).

**Table 11** - Comparison of implementation of human rights standards among the EU largest arms companies (Criterion 5)

Leonardo	✗	Rheinmetall	✓
Airbus	✓	Naval Group	✗
Thales	✗	MBDA	✗
Dassault Aviation	✗		

**6. Does the company clearly allocate responsibility for addressing human rights impacts to specific levels and functions within the business enterprise?**

Pursuant to UNGP 19, the findings from human rights impact assessments should be integrated across internal functions and processes. Most of the companies analysed publicly disclose the specific departments responsible for addressing human rights impacts and their respective functions, although the level of detail provided varies significantly among the companies.

**Table 12** - Comparison of implementation of UNGPs among the largest EU arms companies (Criterion 6)

Leonardo	✓	Rheinmetall	✓
Airbus	✓	Naval Group	— <sup>27</sup>
Thales	✓	MBDA	✗
Dassault Aviation	✓		

**7. Does the company report formally on how it addresses its human rights impacts externally?**

Pursuant to UNGP 21, companies should formally communicate externally how they address human rights impacts. Most of the companies analysed lack meaningful public disclosure regarding how they address their human rights impacts externally. Furthermore, I have not been able to verify the extent to which companies with comprehensive reporting commitments actually disclose all their human rights impacts.

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<sup>27</sup> Naval Group's Charter of Human Rights mentions that it shall integrate a "risk-management system measures to avoid any Human Rights abuses" (p.4), but it is unclear whether such integration has effectively taken place.

**Table 13** - Comparison of implementation of UNGPs among the largest EU arms companies (Criterion 7)

Leonardo	✗	Rheinmetall	✓
Airbus	✓	Naval Group	✗
Thales	— <sup>28</sup>	MBDA	✗
Dassault Aviation	✗		

**8. Does the company provide for, or cooperate in, the remediation of adverse impacts to which it identifies it has caused or contributed?**

Pursuant to UNGP 22, companies should provide for, or cooperate in, the remediation of adverse impacts they have caused or contributed. Only two of the companies analysed have established a remediation policy specifically addressing adverse human rights impacts they have identified as causing or contributing to. I have not been able to verify the extent to which such mechanisms are applied in practice.

**Table 14** - Comparison of implementation of UNGPs among the largest EU arms companies (Criterion 8)

Leonardo	✗	Rheinmetall	✓
Airbus	✓	Naval Group	✗
Thales	✗	MBDA	✗
Dassault Aviation	✗		

**9. Has the company established or participated in a grievance mechanism for individuals and communities who may be adversely impacted by its activities?**

Pursuant to UNGPs 29 to 31, companies should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted. Only two of the companies analysed have established a grievance mechanism for those impacted by their activities. However, I have not been able to verify if such mechanisms comply with UNGP 31, this is, if they are legitimate, accessible, predictable, equitable, transparent, rights-compatible, and a source of continuous learning.

<sup>28</sup> Thales' 2023 Universal Registration Document contains information about its Duty of Care Plan, including a risk matrix and a short description of mitigation policies and actions. However, it does not contain information about how adverse impacts actually caused or facilitated are addressed.

**Table 15** - Comparison of implementation of UNGPs among the largest EU arms companies (Criterion 9)

Leonardo	✗	Rheinmetall	✓
Airbus	✓	Naval Group	✗
Thales	✗	MBDA	✗
Dassault Aviation	✗		

Our analysis reveals that the largest EU arms companies insufficiently implement the UNGPs are insufficiently implemented by the largest EU arms companies. While they generally comply with formalistic recommendations such as issuing policy statements, they fall short in applying meaningful due diligence mechanisms, detailed reporting, and effective remediation and grievance policies.

Amnesty International (2019, p.43) has noted that "beyond applying export controls and other domestic and international restrictions, most states have not required defence companies to conduct human rights due diligence in their global operations and supply chains". In its information note on the arms sector, the WGBHR (2022, p.6) further underscored that arms companies tend to perform HRDD on their supply chains but not on the use of their products, where they typically only comply with existing regulations. Among their recommendations for corporations, the WGBHR (2022, p.8) emphasised the importance of implementing HRDD across all aspects of their operations, with particular attention to high-risk situations. They also stressed the need for companies to publicly communicate the results of such HRDD, ensure that lobbying activities align with the UNGPs, facilitate accessible grievance mechanisms for addressing human rights abuses, and engage in or cooperate with legitimate remediation processes, including providing compensation to victims and participating in judicial proceedings.

In recent years, NGOs and CSOs have sought to hold arms companies accountable for their lack of due diligence in exporting weapons to recipients involved in grave IHL and IHRL abuses through strategic litigation and *name-and-shame* campaigns. Some notable examples include campaigns targeting Airbus's Spanish subsidiary for its arms exports to Saudi Arabia (Schliemann-Radbruch, C., Calvo Rufanges, J. & Esteves Suarez, A., 2022) and Thales for its exports to the Myanmar junta (Reporters without Borders, 2021). Additionally, in 2022 a group of NGOs filed a complaint in France against Dassault Aviation, MBDA, and Thales for their arms exports to Saudi Arabia and the UAE during the Yemen conflict. This complaint

calls for an investigation to determine if these companies have facilitated war crimes and crimes against humanity (Arms Trade Litigation Monitor, 2024(2)).

### **3.2.2.2. Potential impact of the CSDDD**

Further to international soft law guidelines and domestic laws imposing HRDD obligations in France, Germany and the Netherlands, on 24 May 2024 the Council approved the long awaited CSDDD.

The core of this directive is the obligation of Member States to ensure that certain companies undertake human rights and environmental due diligence (Article 5). This entails integrating due diligence into their policies and risk management systems (Article 7), identifying and assessing actual or potential adverse impacts arising from their own operations, those of their subsidiaries, or business partners within their chains of activities (Article 8). Companies must take appropriate measures to prevent or mitigate adverse human rights and environmental impacts (Article 10) and to bring actual impacts to an end (Article 19). Additionally, companies are required to provide remediation for actual adverse impacts (Article 12), engage meaningfully with stakeholders (Article 13), establish and maintain a notification mechanism and complaints procedure (Article 14), monitor the effectiveness of the due diligence and measures adopted (Article 15), and report on their due diligence activities (Article 16). Furthermore, the CSDDD provides for sanctions and civil liability for breaches of these obligations (Articles 27 and 29).

During the negotiation process, there were proposals to specifically address arms trade within the CSDDD (European Coalition for Corporate Justice, 2023, 13 May; Castellanos-Jankiewicz, L. & Schneider, M., 2023, 19 May). These included 1) explicitly including the use and disposal of products within the definition of "value chain", a key concept in the directive, as it determines the scope of HRDD; 2) extending liability to cover failures in preventing and ceasing possible adverse impacts caused by direct and indirect business partners, not just "established business relationships"; 3) listing the arms sector as a high-risk sector subject to enhanced HRDD obligations; and 4) including references to IHL within the list of rights to be covered by due diligence.

The final text agreed upon does not incorporate all the proposals and reveals significant gaps for arms companies. First, the definition of "value chain" was replaced by "chain of activities", which expressly excludes "the distribution, transport, and storage of a product that is subject to export controls under Regulation (EU) 2021/821", once the export of the product

is authorised. Consequently, the use of these items by third-country recipients falls outside the scope of the CSDDD, as the assessment of adverse human rights impacts is assumed to be covered by the export licensing procedure—which, as noted in **section 2.2.2**, is not necessarily the case.

Second, Article 29 excludes company liability for damages caused solely by business partners in their chain of activities. Third, the arms sector was not given any special treatment under the CSDDD. Furthermore, EU companies with a net global turnover below €450 million or fewer than 1,000 employees, and non-EU companies with a net turnover in the EU below €450 million, fall outside the scope of the CSDDD.

Overall, the CSDDD will only apply to the largest arms companies—not to the numerous SMEs operating in the sector—and their due diligence obligations will not cover the use of items covered by Regulation (EU) 2021/821 in third countries, which is a primary source of human rights violations. Thus, the impact of the CSDDD on the industry is significantly diluted.

### **3.2.3. Lobbying activities in the EU**

As elaborated above, the EU arms industry operates in a highly regulated market, with the public sector constituting a significant portion of the demand. As a result, policies and legislation adopted by EU institutions can either restrict or expand the markets and client base of these companies, directly impacting their revenues. Therefore, these companies actively seek to influence decisions that affect their business through lobbying activities.

A report issued by the European Network Against Arms Trade (Akkerman, M. & Maulewaeter, C., 2023) details the main lobbying activities of the arms industry in recent years. The report asserts that these efforts have significantly influenced EU defence policies and contributed to advancing the EU militarisation strategy, which will be further analysed in **Chapter 3**. The following is a summary of these lobbying activities:

- Participation in the Informal Commission Expert Group on policies relevant to EU space, defence and aeronautics industry. This group was established in 2021 by the newly created Directorate-General for Defence Industry and Space (DG DEFIS) to, among other tasks, "provide advice and expertise to DG DEFIS in the preparation and implementation of policies relevant to the space, defence and aeronautics industry" (DG DEFIS, 2021).

- Attendance by the 10 largest EU arms companies and the two major industry trade organisations at over 150 meetings with EU MEPs since 2019 (Akkerman, M. & Maulewaeter, C., 2023, p.15).
- Establishment of a Commission expert group on Policies and Programmes relevant to EU Space, Defence and Aeronautics Industry for permanent dialogue between the European Commission and the arms industry (Akkerman, M. & Maulewaeter, C., 2023, p.4).
- Organisation of three high-level meetings among industry and political leaders between October 2022 and May 2023.

The table below summarises the lobbying efforts in recent years by leading EU arms companies and trade associations.

**Table 16** - Summary of lobbying expenditure, accredited lobbyists and meetings with MEPs and European Commission by largest EU arms companies and associations (2014-2023)

Company	Country	Expenditure (2021)	Accredited lobbyists (2023)	Meetings with the European Commission (2014-2023)	Meetings with MEPs (2019-2023)
Leonardo	Italy	€300,000 - €399,999	3	58	17
Airbus	Trans-European	€1,250,000 - €1,499,999	3	261	78
Thales	France	€300,000 - €399,999	0	34	7
Dassault Aviation	France	€300,000 - €399,999	1	17	3
Safran	France	€300,000 - €399,999	6	21	22
MBDA	Trans-European	€50,000 - €99,999	1	7	6
Naval Group	France	€200,000 - €299,999	0	11	3
Rheinmetall	Germany	€700,000 - €799,999	3	2	4

Saab	Sweden	€400,000 - €499,999	0	19	6
KNDS	Trans-European	€200,000 - €399,999	2	3	5
ASD		€400,000 - €599,999	12	85	23
European Organisation for Security		€100,000 - €199,999	0	18	1

Source: Akkerman, M. & Maulewaeter, C., 2023, p.16

These data do not consider informal meetings, meetings with delegations of Member States and the Council, which are not shown in the transparency register. This also excludes meetings held by specialised advocacy firms such as Business Bridge Europe, which represents over 20 military and security companies (Akkerman, M. & Maulewaeter, C., 2023, p.19). Additionally, ASD has been accused of underreporting "its lobbying budget by a factor of ten" (Campaign Against Arms Trade, 2017).

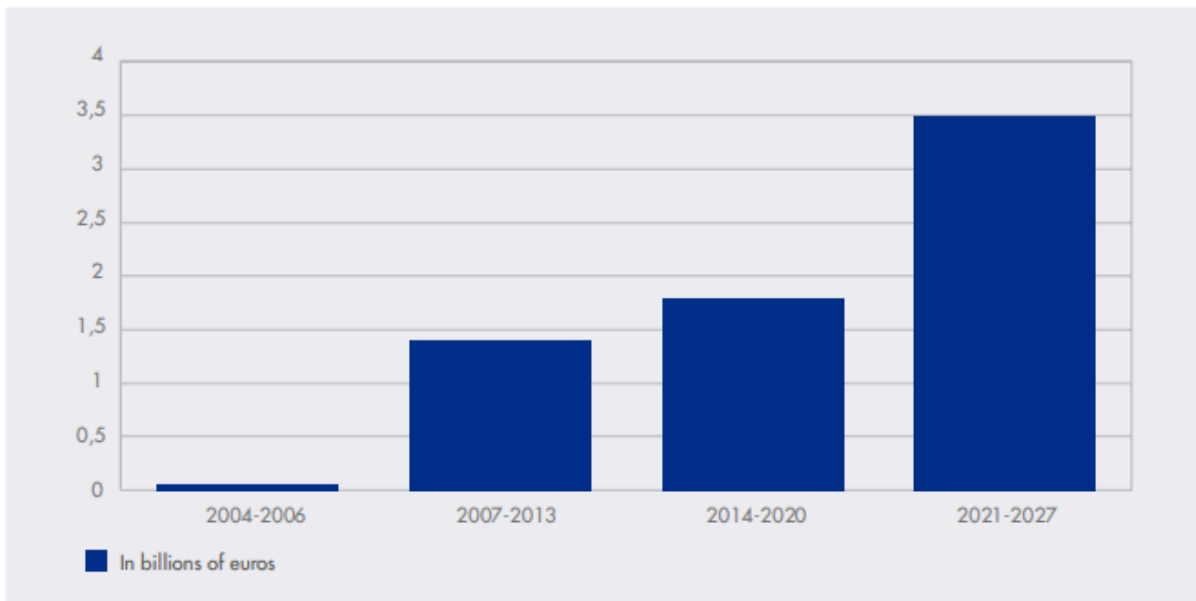
Akkerman, M. & Maulewaeter, C. (2023) identifies a connection between the EU arms industry advocacy and recent developments in defence and security policies (further detailed in **section 4.2**), such as:

- Creation of the DG DEFIS in 2019, under the leadership of Commissioner for Internal Market, Thierry Breton<sup>29</sup>.
- Approval of the European Defence Fund (EDF), the Act in Support of Ammunition Production (ASAP) and the European Defence Industry Reinforcement through Common Procurement Act (EDIRPA).
- Access to the arms industry to civilian programmes, from Erasmus+ to structural funds —and more recently, to funding by the European Investment Bank (EIB)—.
- Substantial increase in EU budget for security and defence research programmes in recent years. The table below illustrates the evolution of the EU budget in these areas before the radical increase in military expenditure after the full-scale invasion of Ukraine by Russia in 2022.

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<sup>29</sup> The appointment of Mr. Breton raised concerns about potential conflicts of interest given his previous role as CEO of Atos, a French company with interests in the security sector (Corporate Europe Observatory, 2019).

**Figure 9 - EU defence budget (2004-2027)**



Source: Vranken, B (2017, p.6). The budget for the budget cycles 2014-2020 and 2021-2027 is a projection.

All these steps were welcomed by the EU arms industry, which advocates for progressing in the same direction. ASD, the main industry association, is dedicated to engaging in advocacy with the European institutions and informing EU public policy-making "in the best interest of its members" (ASD Statutes, Article 2). As such, ASD plays a pivotal role in coordinating the lobbying efforts of EU arms companies.

In February 2024, ASD released its Policy Recommendations for the incoming European Parliament and Commission (2024-2029). These recommendations emphasised the need to bolster the defence industry's capacity and foster "synergies between technologies and EU programmes", with a view to developing an authentic EU security industrial policy (ASD, 2024). Earlier, in its Facts&Figures 2023 report, ASD (2023, p.25) advocated for redirecting military expenditures towards EU suppliers and highlighted the following key objectives:

- Improving the EU defence industry's ability to meet current high demand and maintain sustainable industrial capacity and responsiveness.
- Enhancing technological excellence by investing heavily in defence research and development at both national and EU levels, and fostering collaboration between defence and civilian sectors.

- Reducing dependencies and vulnerabilities in supply-chain for critical technologies, components and raw materials.
- Securing sufficient funding by ensuring consistent public investment and facilitating defence companies' access to finance.

As noted by Vranken, B. (2017, p.3), the privileged role given to the arms industry in these EU decisions contrasts sharply with the limited input from civil society and the European Parliament. This lack of scrutiny could lead to inadequate management of potential conflicts of interest in these public-private partnerships and diminished democratic legitimacy in critical security decisions. It also suggests that human rights considerations in decision-making processes may be affected by other factors such as corporate profitability and geopolitical advantages.

#### **4. Chapter 3: Political dimension**

In this chapter, I examine the EU arms industry from a third and final perspective: the political dimension.

As seen in **Chapter 1**, the international and EU regulatory frameworks on arms control and disarmament development and implementation is profoundly influenced by geopolitical tensions and political decisions, both internationally and within the EU. In **Chapter 2** I explored the economic relevance of this industry for Member States, and the influence that the leading EU arms companies may exert in EU policy-making.

**Chapter 3** begins with a general examination of the current geo-political scenario and the position the EU may play in it. Then, it describes and offers a critical analysis of the EU arms race, which has accelerated since February 2022.

##### **4.1. The EU in the current world order**

###### **4.1.1. Multipolar world order and New Cold War**

Following the dissolution of the Soviet Union, Fukuyama (1989) famously announced the "end of history" and "the universalisation of Western liberal democracy as the final form of human government". However, the global distribution of power in the following decades proved this prediction wrong.

Some authors argue that the world order has shifted from *bipolarity* between the USA and the Soviet Union during the Cold War, to a period of US *unipolarity* after the collapse of the Soviet Union in 1989, to the current *complex multipolarity* following the financial crisis in 2008 (Peters, M.A., 2022, p.1653). Others, however, suggest that USA's hegemony is still predominant and that such unipolarity helps to reduce conflict (Wohlforth, W., 2022, pp.411-424).

This geopolitical scenario is characterised by several key trends: a relative decline of Western powers, the ascendance of China and the formation of a China-Russia axis, an ambivalent role and strategic leverage of India and other middle powers such as Brazil, Mexico, South Africa and Turkey, and the retreat from traditional multilateralism towards regional associations (EU, NATO, ASEAN) and increasingly influential forums (G77, BRICS) which, in turn, underscore a more active role of the Global South in the international arena (Peters, M.A., 2022, p.1662). From an economic perspective, multipolarity suggests that "you have groups of nations with enough influence and incentive to pursue economic strategies that, if achieved,

do not substantially follow the same direction of other global power centres" (Morgan Stanley, 2020).

Realist theorists typically argue that bipolarity tends toward stability in scenarios where significant power asymmetries are absent (Waltz, K., 1979, pp.179-171). In contrast, multipolar systems are prone to instability and conflict due to phenomena like *chain-ganging* -exacerbation of conflicts due to existing alliances or coalitions- and *buck-passing* -powers' refusal to confront increasing threats in the belief that others will intervene instead- (Christensen, T. & Snyder, J., 1990, p.137-168).

Moreover, some authors suggest that the rising economic and political influence of China, coupled with the relative decline of US hegemony, could lead to a Thucydides trap situation. This scenario poses an increasing risk of war "unless both parties take difficult and painful actions to avert it" (Allison, G., 2017). Meanwhile, although it has not regained its economic and political influence from the Soviet era, Russia pursues an expansionist and bellicose agenda—evidenced by its invasions of Georgia in 2008 and Ukraine in 2014 and 2022—which clashes with the West and the idea of a rules-based world order. Furthermore, China-Russia relations appear to be growing increasingly stronger, with China expected to "fully back Putin's effort to threaten and undermine [Western] liberal democratic states" (Mayer, M. & Kavalski, E., 2024, 4 June).

This complex multipolar scenario, especially following the events of February 2022, has led some authors to assert that we are witnessing (or about to witness) the onset of a New Cold War or Cold War II, either between the East and the West, representing democracy versus authoritarianism (Breuer, C., 2022, p.202), fought on a "three-fold multipolar strategic chessboard" (Eastern Europe, the Middle East, and the Indo-Pacific) between the USA and its allies, and China, Russia, and Iran—each pursuing their own agenda but cooperating sporadically (Alonso-Trabanco, J.M., 2024, 24 January), fundamentally between the USA and China (Brands, H., & Gaddis, J.L., 2021, 19 October), or fundamentally between the USA and Russia (Cohen, S., 2018, 14 February).

#### **4.1.2. The EU at a crossroads in the multipolar world order**

The EU confronts the challenges posed by this geopolitical scenario at a critical juncture for several reasons, foremost among them its inability to present a unified stance in its external actions.

Domestically, the European political integration project has been increasingly questioned since the 2008 financial crisis. The success of this sceptic position is exemplified by the 2016 Brexit vote, which led to the UK—the third most populous Member State at the time—to leave the EU in 2021, as well as the significant support garnered by eurosceptic parties in recent elections. In this regard, the eurosceptic discourses tensioning the foundations of the EU can be summarised in two: "(1) the traditional 'North-South' conflict of interest along the solidarity/responsibility dimension; and, compounding this, (2) an 'East-West' conflict of values along the integration/national sovereignty dimension" (Almunia, J. et al., 2023, 4 October).

In the 2024 European Parliament elections, parties affiliated with the European Conservatives and Reformists<sup>30</sup>, Identity and Democracy<sup>31</sup> and the recently-created Patriots for Europe political groups, along with the German Alternative für Deutschland (AfD), which espouse varying degrees of eurosceptic right-wing populist ideas, obtained 156 out of 720 seats. Eurosceptic discourses can also be observed to a lesser extent among some parties affiliated with The European Left and other non-affiliated parties, such as the Italian Five Star Movement.

More significantly, these parties are gaining increased influence in national parliaments and governments, with some reaching governing positions in several Member States. Prime Ministers Viktor Orban (Hungary), and Robert Fico (Slovakia), openly articulate criticism of the EU common external action, especially in their position towards Russia (Nicholson, T., 2024, 6 July). Marine Le Pen, whose party *Rassemblement National* won the 2024 European Parliament election in France, similarly adopts a critical stance towards EU policies (Bryant, E., 2019, 22 February). In some instances, criticism extends beyond the supranational nature of the EU or the breadth of its policies to encompass fundamental values such as democracy and respect for human rights—for instance, consider Orban's advocacy for *illiberal democracy* (Orban, V., 2018, 28 July)—.

This trend poses significant problems to the EU project, particularly in the field of foreign and security policies. The current EU treaty architecture delegates the CFSP exclusively to intergovernmental cooperation, mandating unanimity among all 27 Member States to make

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<sup>30</sup> In their 2013 Reykjavik Declaration, this group placed national identity (point 1) and sovereignty (point 3) at the forefront of their principles.

<sup>31</sup> Article 3 of Identity and Democracy's statutes advocates for a nationalistic approach to the EU project, emphasising "voluntary cooperation between sovereign European nations", while rejecting "any further evolution toward a European superstate".

decisions in this field. While the unanimity rule ensures that foreign and security policies remain entirely within the realm of national sovereignty of each Member State, it also gives rise to challenges such as strategic vetoing, delays in decision-making, reduced effectiveness, potential deadlocks, and susceptibility to undue influence from external powers (Navarra, C., Jancova, L. & Ioannides, I., 2023, p.2). These issues are especially pronounced if there are governments that do not fully uphold the EU's fundamental values.

In addition to domestic tensions, the EU faces significant external challenges. First, there is the aggressive stance of Putin's Russia, exemplified by military interventions in Georgia in 2008, Crimea and Eastern Ukraine in 2014, and the full-scale invasion of Ukraine in 2022. Russia also exploits conflicts to extend its influence, particularly in the Middle East and the Sahel, and engages in interference in Europe through information manipulation and cyber attacks (Strategic Compass, 2022, p.17).

Secondly, there is the growing hegemony of China, described as "an economic competitor and a systemic rival," posing risks to upholding global security and undermining the rules-based international order (Strategic Compass, 2022, p.18).

Thirdly, concerns arise about a potentially isolationist USA following the November 2024 presidential elections, which could "create a vacuum and potential security crisis in Europe by removing the backbone of European defence: the U.S. military" (Bergman, M., 2024, p.7). At the same time, reliance on the USA for Europe's defence have prevented the EU to build their own defence capabilities and have a coherent security strategy -although this has changed in recent years, as explored in **section 4.2**. However, the July 2024 NATO Summit reaffirmed the NATO-EU strategic partnership, committing to strengthen it "in the spirit of full mutual openness, transparency, and complementarity" (NATO, 2024(1), para. 29). Additionally, the summit pledged to "provide sustainable levels of security assistance for Ukraine" (NATO, 2024(2), para. 3).

Fourthly, instability in the Western Balkans, the Sahel, and the broader Middle East presents diverse challenges, ranging from security risks to increased migration flows (Strategic Compass, 2022, p.5).

EU High Representative Josep Borrell (2021) supports the view of the current world order as one of *complex multipolarity*. He summarised this transition by stating, "we went from a bipolar configuration between 1945 and 1989 to a unipolar configuration between 1989 and

2008, before entering in what we today could call 'complex multipolarity'". Borrell identifies three dominant poles: the USA, China and the EU. He also acknowledges the emergence of the US-China bipolarity alongside significant roles for political and military powers without economic strength (Russia and Turkey), and economic powers lacking proper political weight (the EU).

In this context, Borrell advocates for the EU to bridge the gap between economic and geopolitical influence by championing multilateralism and a rules-based order. This *principled pragmatism* has consistently guided modern EU external action, exemplified by Borrell's assertion that "there is no contradiction between playing power politics and promoting values. On the contrary. Showing that you will not abandon your principles is a sign of strength". The defence of multilateralism is also featured in the EU Strategic Compass for Security and Defence, approved in March 2022 (see **section 4.2.4.1** below). The document affirms that "the EU is a determined supporter of effective multilateralism and it has sought to develop an open rules-based international order, based on human rights and fundamental freedoms, universal values and international law" (Strategic Compass, 2022, p.17).

In October 2023, a group of European policymakers and academics issued a manifesto titled *The European Union at the time of the New Cold War*. In this article, they diagnosed the EU's inability to exert influence in shaping the new world order and effectively addressing global challenges, attributing this to incomplete institutional construction, deficient decision-making processes, and internal and external tensions (Almunia, J. et al., 2023, 4 October).

In contrast, they advocated for a new political contract grounded in "gradual and pragmatic federalism" and a revitalised commitment to multilateralism, steering clear of the "pure logic of power in international relations", and nationalistic approaches. In the area of defence and security, this initiative would involve "pooling sovereignty at the EU level" to achieve strategic autonomy, and crafting "an EU security and defence policy within NATO, but having sufficient autonomy and visibility, thereby robust to possible renewed isolationist tendencies in the US after the November 2024 elections" (Almunia, J. et al., 2023, 4 October).

If the EU aspires to be a *leading actor* in the current geo-political scenario, it first needs to establish itself as an *actor*, capable of speaking with a single voice. Second, it must articulate a coherent discourse that guides its external actions —I will conclude below that such discourse should be centred around its fundamental values established in Article 2 TEU—. The current institutional architecture and the internal and external tensions hinder both pre-requisites. However, this has not prevented the EU from progressively advancing towards

militarisation in recent years, although the strategic approach and consistency of these policies may be questioned.

## **4.2. The EU path towards militarisation**

### **4.2.1. Key components of the EU's defence industry policies**

The EU's defence industry policy centres around five main, interconnected components that have evolved constantly since the beginning of the 21st century (European Parliament, 2024):

#### **A) Creation of a EU defence equipment market**

In 2003, the European Commission introduced the *Towards a European Union Defence Equipment Policy* strategy with the goal of enhancing "the industrial and market position of European defence companies" (European Commission, 2003). This initiative aimed to overcome the traditional protectionism of national arms industries and bolster the EU's capacity to "develop a European Security and Defence Policy that is capable of strengthening Europe's position on the international stage" (European Commission, 2003).

This strategy encompassed four key areas: 1) harmonising military equipment planning and procurement; 2) fostering a competitive industrial structure in the EU; 3) establishing an appropriate regulatory framework -including economically effective export controls- and rules to facilitate cost-efficient procurement by Member States and the EU itself; and 4) enhancing intra-EU research cooperation through civil-military synergies.

Building upon this strategy, in 2004, the European Commission introduced the Green Paper on Defence Procurement. This document proposed clarifying and supplementing the existing legal framework, justifying EU involvement in defence procurement on three primary factors: 1) the fragmented nature of defence markets, which affects the global competitiveness of the EU industry; 2) the unique features of defence markets, including the predominant role of states, the imperative to ensure security of supply, maintain programme confidentiality, and manage the complexities of arms acquisition; and 3) the intricacy of the legal framework.

In subsequent years, the EU adopted several instruments moving in this direction, including:

- a) In May 2005, the EDA participating states<sup>32</sup> agreed on a voluntary Code of Best Practice in the Supply Chain which had been previously approved by the arms

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<sup>32</sup> In 2005, Denmark was the sole Member State not participating in the EDA. However, by 2024, all Member States had joined the agency, with Denmark's decision to join the CSDP in 2022 being prompted by the Russian war on Ukraine.

industry, represented by the ASD, to promote "increased competition and fair opportunities for all suppliers" (para. 2).

- b) In October 2005, the EDA participating states endorsed a voluntary Code of Conduct on Defence Procurement to advance towards "an internationally competitive European Defence Equipment Market, as a key means to strengthen the European Defence Technological and Industrial Base" (p.1) by establishing competitive criteria for public procurements exceeding €1,000,000 (with exceptions) (p.1).
- c) In July 2006, the EDA promoted the creation of the Intergovernmental Regime in Defence Procurement, designed to "open up public procurement to cross-border competition" (EDA, 2006, p.7). All EDA participating States, except Hungary and Spain, adhere to this regime.
- d) In December 2007, the European Commission revamped its approach to defence industry policies with its communication *A strategy for a stronger and more competitive European defence industry*. They stressed the necessity to "take vigorous action to enhance the competitiveness of Europe's defence industries" (European Commission, 2007, para. 4), underscoring the crucial role of a robust defence industry for the CSDP, which is "designed to provide the EU with the capacity for autonomous action in order to respond to international crises, without prejudice to actions by NATO" (European Commission, 2007. para. 1).

The European Commission also cautioned that a non-competitive defence industry could "jeopardis[e] the industrial capacities to autonomously develop the capabilities needed for the ESDP [CSDP]". Notably, they recommended expanding into foreign markets beyond the USA, considering "potential new challenges and opportunities stemming from the rapidly emerging economies" (European Commission, 2007, para. 3.3.1).

## **B) Harmonisation of the defence procurement and intra-EU transfers of defence products**

Directive 2009/43/EC, discussed in **section 2.2.3.1** above, was complemented by Directive 2009/81/EC, which standardised procedures for defence procurement -albeit with provisions allowing member states to maintain certain exemptions under Article 346 TFEU. These harmonising efforts gained renewed momentum after Russia's invasion of Ukraine, leading to

the establishment of the European Defence Industry Reinforcement through common Procurement Act (EDIRPA), as outlined in **section 4.2.3.2** below.

### **C) Establishment of the European Defence Agency (EDA)**

In July 2004, the Council agreed to establish the EDA. This agency was tasked with developing defence capabilities for crisis management, promoting and enhancing EU armaments cooperation, creating an internationally competitive EU defence equipment market, and increasing the effectiveness of the EU defence research and technology (Council Joint Action 2004/551/CFSP, Article 5). The operational rules of the EDA were subsequently revised in 2011 and 2015, expanding its functions to include identifying the Member States' military capability objectives and proposing multilateral projects to meet these objectives, among other responsibilities (Council Decision (CFSP) 2015/1835, Article 5).

### **D) Development of a European defence research programme**

As detailed in **section 4.2.3.1**, starting from 2016, the EU has promoted pan-European defence research initiatives. These include the Preparatory Action on Defence Research (PADR) from 2017 to 2019, the European Defence Industrial Development Programme (EDIDP) from 2019 to 2020, and the European Defence Fund (EDF) with a total budget of €8 billion allocated between 2021 and 2027 (Regulation (EU) 2021/697).

### **E) Development of a European Defence Industrial Strategy (EDIS)**

As outlined in **section 4.2.3.2**, the first EDIS was introduced in March 2024. This strategy is set to be complemented by the European Defence Industry Programme (EDIP), expected to mobilise €1.5 billion from the EU budget between 2025 and 2027.

## **4.2.2. Recent developments in the EU militarisation process**

Russia's full-scale attack on Ukraine in February 2022 intensified the focus on security within EU leadership, revealing a heightened interest in enhancing the EU's arms production capabilities and strengthening common defence policies to achieve strategic autonomy. However, policy steps and institutional changes aimed at these goals had already been intensifying in the years leading up to 2022. This section scrutinises the key decisions in these areas adopted within the EU since 2016, public statements made by leading officials justifying the need for increased militarisation, and critical approaches to this trend.

#### 4.2.2.1. The EU Global Strategy on Foreign and Security Policy

In June 2016, just days after the Brexit vote, the EU High Representative Federica Mogherini delivered a new EU Global Strategy on Foreign and Security Policy (EUGS) replacing the outdated European Security Strategy of 2003. The EUGS was justified by the need to unite around a "stronger Europe" in "times of existential crisis". In this regard, the EUGS has been described as offering a "point of reference for a soul-searching EU" (Grevi, G., 2016).

The EUGS begins by establishing a symbiotic relationship between EU interests and values, including the respect and promotion of human rights, democracy, and the rule of law. It introduces *principled pragmatism* and *resilience* as the guiding concepts of EU external action, coupling "a realistic assessment of the current strategic environment" with "an idealistic aspiration to advance a better world" (EUGS, 2016, section 1).

Principled pragmatism has been interpreted as a departure from "the outwards looking idealism of the early 2000s, without swinging all the way to the opposite end of *realpolitik*" (Tocci, N., 2019, p.55). In practical terms, this approach entails the EU refraining from acting as an unwavering champion of democracy, human rights, and the rule of law in all situations, but rather intervening when such actions align with its interests. In essence, it suggests that the "EU should engage in the external context for what it can realistically achieve rather than for what is desirable" (Colombo, S., 2021, p.5).

Resilience is often seen as the "perfect middle ground between overambitious liberal peace-building and the under-ambitious objective of stability" (Wagner, W. & Anholt, R., 2016, p.415). However, the term has been widely used in international relations, leading to a loss of its distinct meaning. The EUGS defines resilience as "the ability of states and societies to reform, withstand, and recover from internal and external crises" (EUGS, 2016, p.23).

The EUGS outlines the core priorities of the EU external action, placing the security of the EU at the forefront. Enhancing EU defence and security capabilities to achieve "an appropriate level of ambition and strategic autonomy" is deemed essential to "foster peace and safeguard security within and beyond its borders" (EUGS, 2016, p.19). According to the EUGS, relying on the partnership established by most Member States and the EU with NATO is not sufficient for these purposes.

According to some commentators (Bendiek, A., 2016), the EUGS appears to prioritise *strategic autonomy* as a primary objective, without first establishing a coherent EU foreign and security policy. Furthermore, while unity is a prerequisite for defending EU positions in

the global arena, it is not sufficient on its own to be truly influential. As noted by Thomas, D. (2012, p.472) "coherence may be necessary for the EU to exert its influence abroad, but it clearly is not sufficient in a multi-centric world order where many others do not share the EU's collective policy preferences and are ready to deploy vast resources in pursuit of their goals".

At the same time —seemingly paradoxically—, the EUGS proclaims the EU's commitment to "expanding membership, universalisation, full implementation and enforcement of multilateral disarmament, non-proliferation and arms control treaties and regimes" (EUGS, 2016, p.41). This includes strengthening "rules governing Member States' export policies of military –including dual-use– equipment and technologies, and support export control authorities in third countries and technical bodies that sustain arms control regimes" (EUGS, 2016, p.42).

The EUGS can be considered a "more *realist* guide for EU foreign and security policy in the near future" (Smith, K.E., 2017, p.1). However, it has faced criticism for its perceived failure to establish clear priorities, outline the necessary resources to achieve them, and establish mechanisms for monitoring progress (Smith, K.E., 2017, p.19). Furthermore, it arguably prioritises military capacity-building and the primary driver of defence and security, while giving less attention to diplomacy.

In subsequent years, EU bodies undertook several actions to implement the EUGS. Here are the most notable initiatives:

- a) In December 2016, the Council adopted a Security and Defence Implementation Plan (SDIP). This plan outlined the EU's new *level of ambition* to achieve its primary objectives: responding to external conflicts and crises, building the capacities of partners, and protecting the EU and its citizens (EU External Action, 2018, 1 March, p.2). While promoting respect for international law, including IHL and IHRL, is mentioned in the SDIP, it is viewed not as an independent objective but as a constraint to be considered in the process of building partner capacities.
- b) In May 2017, the European Commission launched the Preparatory Action on Defence Research (PADR) to fund 18 defence research projects with a total budget of €90 million from 2017 to 2019. Despite its relatively modest scale within the EU budget, the initiative was hailed as a potential *game-changer*, as it "could represent a shift in

the way that the EU regards and supports defence research" (Fiott, D & Bellais, R., 2016).

- c) In June 2017, the European Commission presented the European Defence Industrial Development Programme (EDIDP), earmarking up to €500 million between 2019 and 2020. EDIDP aimed to support collaborative development of defence technologies and products. In total, 42 projects received funding under EDIDP during 2019 and 2020 (EU Defence Industry and Space, 2021). The diagram below illustrates the distribution of EDIDP funds in 2020.

**Figure 10** - Distribution of EDIDP funds (2020)



Source: EU Defence Industry and Space (2021)

- d) Later in 2017, the Council agreed on a comprehensive package of defence initiatives for the EU, comprising:
- i) The Military Planning and Conduct Capability (MPCC): a permanent operational headquarters in Brussels for EU military operations of up to 2,500 troops (EU External Action, 2023, 15 February).
  - ii) The Coordinated Annual Review on Defence (CARD): a procedure conducted periodically by the EDA in coordination with the EU Military Staff to enhance "defence cooperation and collaborative capability development" (EDA, n.d.).

- iii) The Permanent Structured Cooperation (PESCO): an intergovernmental framework aimed at fostering cooperative development of military capabilities among Member States. As of July 2024, there are 68 PESCO projects under development, covering domains such as training, land, maritime, air, and cyber warfare (PESCO, n.d.).
- iv) The European Defence Fund (EDF): a budgetary instrument designed "to foster the competitiveness and innovativeness of the European defence technological and industrial base thereby contributing to the EU's strategic autonomy" (European Commission, 2018). The EDF was justified by the instability of neighbouring regions and the proliferation of new threats such as hybrid and cyber-attacks. Building upon the PADR and the EDIDP, the EDF has an estimated budget of €8 billion allocated for the period from 2021 to 2027 (European Commission, 2024, 16 May).

#### **4.2.2.2. Escalation in the years prior to the Russian full-scale war on Ukraine**

The paradigm shift towards common military initiatives that began with the EUGS in 2016 continued into the new political cycle initiated in 2019.

In her opening statement in the European Parliament, President von der Leyen, who served as German Minister of Defence from 2013 to 2019, placed the defence and security policies among her top priorities. She advocated for a "stronger and more united voice" for the EU in the world and the reinforcement of the "European Defence Union", claiming that defence is "embedded in comprehensive security" (von der Leyen, U., 2019).

In 2019, the European Commission established the DG DEFIS as the department responsible for EU policy on defence industry and space. DG DEFIS assumed the "implementation and oversight" of the EDF, the task of "building an open and competitive European defence equipment market", and "leading on the implementation of the Action Plan on Military Mobility" (EU Defence Industry and Space, 2024(1)). In 2021, DG DEFIS established the Informal Commission Expert Group on policies relevant to the EU space, defence and aeronautics industry. This group includes members from major EU arms companies and aims to "provide advice and expertise to DG DEFIS in the preparation and implementation of policies relevant to the space, defence and aeronautics industry" (DG DEFIS, 2021).

In March 2021, the Council adopted a decision establishing the European Peace Facility (EPF), a fund created by Member States outside of the EU budget for the period from 2021 to 2027. The EPF aims to finance actions under the CFSP "to preserve peace, prevent conflicts, and strengthen international security" (Article 1.1). Initially, the financial ceiling was set at €5,692 million. However, this amount was subsequently increased in March 2023, June 2023, and March 2024, reaching a total of €17 billion, primarily driven by the establishment of the Ukrainian Assistance Fund (Council, 2024, 18 March).

The EPF is used for both common costs of EU operations with military or defence implications and assistance measures to strengthen the military and defence capacities of third states and international organisations or support their peace support operations (Article 1.2). One of the principles for adopting assistance measures is the respect for the obligations of the EU and Member States under IHL and IHRL (Article 56). Consequently, the committee managing the EPF may decide to suspend an assistance measure if the beneficiary is in breach of its obligations under IHL and IHRL (Article 64). However, this suspension is a prerogative, not an obligation, and therefore does not apply automatically if the recipient is in breach of its obligations under international law.

As of July 2024, there are nine missions and operations financed under the EPF (European Council, 2024): the military assistance mission in Ukraine (EUMAM Ukraine), the military operation in Bosnia & Herzegovina (EUFOR Althea), training missions in Somalia (EUTM Somalia), CAR (EUTM RCA), and Mozambique (EUTM Mozambique), naval operations in the North West Indian Ocean (EUNAVFOR Atalanta), the Central Mediterranean (EUNAVFOR Med Irini) and the Red Sea, the Indian Ocean and the Gulf (EUNAVFOR Aspides), and the security and defence initiative in the Gulf of Guinea (EU SDI GoG).

Furthermore, in 2021, the European Commission presented a new Strategic Compass for Security and Defence (the Strategic Compass). The final version of this Strategic Compass underwent substantial changes following Russia's war of aggression against Ukraine in February 2022, as will be discussed in **section 4.2.4.1** below.

#### **4.2.2.3. Russia's war of aggression against Ukraine: a geopolitical reset?**

Since 24 February 2022, the Russian full-scale war against Ukraine served as a catalyst to justify and deepen EU common defence policies and initiatives. In the words of the European Parliament (2024), it has "acted as a geopolitical reset for Europe and created further impetus

for what should become a EU Defence Union". Similarly, the 2022 CARD Report stated that the war has "dramatically reshaped Europe's security situation and will have an enduring yet incremental impact on the EU defence landscape" and considered that defence spending increases constitute "both an opportunity and a challenge" (2022 CARD Report, p.12). It has also been suggested that this war "unexpectedly provided a source of inspiration for European integration, a clarification of western values, and promoted the greatest sense of unity with the US" (Peters, M.A., 2023, p.1654).

Soon thereafter, on 11 March 2022, the EU Heads of State or Government issued the so-called Versailles Declaration, affirming Russia to cease its illegal military action and committing to "bolster European defence capabilities" in light of such military aggression. They agreed to: 1) increase defence expenditures; 2) step up cooperation through joint projects; 3) close shortfalls and meet capability objectives; 4) boost innovation including through civil/military synergies; and 5) strengthen and develop our defence industry, including SMEs (Versailles Declaration, 2022, 11 March).

On 21 March 2022, the Council approved the Strategic Compass titled *For a European Union that protects its citizens, values, and interests and contributes to international peace and security*. This document identifies the threats facing the EU in a multipolar world order and calls for the enhancement of common security and defence policies from 2022 to 2030. The Strategic Compass proposes a series of actions aimed at achieving this goal, which are grouped in four pillars:

- **Act:** This pillar aims to empower the EU to " become a more assertive security and defence actor by enabling more robust, rapid and decisive action" (Strategic Compass, 2022, p.30), It seeks to achieve this by bolstering CSDP missions and operations, establishing an EU Rapid Deployment Capacity with around 5,000 soldiers by 2025, and enhancing command and control structures such as the MPCC (Strategic Compass, 2022, p.11).
- **Secure:** This priority includes preparing for rapidly emerging threats, enhancing intelligence capabilities, and defending against hybrid threats such as foreign manipulation and cyberattacks, while also strengthening presence in maritime, air, and space domains (Strategic Compass, 2022, p.12).
- **Invest:** This aspect entails a significant increase in "defence expenditures to match [its] collective ambition to reduce critical military and civilian capability gaps". To

that end, the recommendation includes increasing national military budgets, fully leveraging the PESCO and the EDF, establishing a Defence Innovation Hub under the EDA, promoting collaborative projects, and reducing barriers to accessing private and public funding for the arms industry (Strategic Compass, 2022, p.49-50).

- **Partner:** Finally, the Strategic Compass aims to enhance "cooperation with partners and further tailor our partnership packages" (Strategic Compass, 2022, p.59). In this context, the priorities for cooperation and dialogue include multilateral partners such as NATO and the UN, regional partners like the OSCE, African Union, and ASEAN, and bilateral engagements with primary allies such as the USA, Norway, Canada, and the UK. Additionally, there is a focus on strengthening dialogue with EU partners in the Western Balkans, Eastern Europe, Northern Africa, the Indo-Pacific, and Latin America (Strategic Compass, 2022, p.60).

Furthermore, the EU's immediate response to the invasion of Ukraine was channelled mainly through three initiatives.

First, the Act in Support of Ammunition Production (ASAP), approved in July 2023. This programme aims to ramp-up the "ammunition production capacity across Europe" with the dual objectives of assisting Member States to "refill their stocks" and "deliver ammunition to Ukraine by anticipating bottlenecks and shortages in the defence supply chains" (EU Defence Industry and Space, 2024(1)). As of July 2024, the European Commission had selected 31 projects to be financed through grants under the ASAP totalling €500 million over two years. These projects cover explosives, powder, shells, missiles and testing and reconditioning certifications (EU Defence Industry and Space, 2024(1)).

Second, the European Defence Industry Reinforcement through Common Procurement Act (EDIRPA), approved in October 2023. This legislation aims at "incentivising Member States to commonly procure defence products for which there is an urgent and critical need, especially those amplified following the Russian aggression against Ukraine" (EU Defence Industry and Space, 2024(2)). In March 2024, the European Commission approved a total budget of €310 million to support the EDIRPA Work Programme (EU Defence Industry and Space, 2024(2)).

Third, the creation of an Ukrainian Assistance Fund within the EPF, under which the EU has mobilised €11.1 billion from 2022 to 2024 to support the Ukrainian armed forces (European Council, 2024).

#### 4.2.2.4. Current state of affairs: towards a *war economy*?

In 2024, the EU has taken a significant step beyond the Strategic Compass. The heightened Russian military threat and the possible reelection of Donald Trump as U.S. President in November 2024—who has suggested that the USA might not honour its defence commitments to *delinquent* NATO members (Associated Press, 2024, 12 February)—, increase the risk of conventional warfare on EU ground. This risk is faced by an EU arms industry with serious deficiencies, including the inability to provide prompt assistance among Member States due to insufficient reserve arms stock, the lack of emergency responses to initiate rapid military production, and insufficient "structural EU defence readiness across all time horizons" (Tardy, T., 2024).

In response to these challenges, on 5 March 2024, the European Commission and the EU High Representative presented the first-ever European Defence Industrial Strategy (EDIS), along with its financial leg, the European Defence Industrial Programme (EDIP), which is described a "first immediate and central means to deliver the Strategy" (European Commission, 2024).

The EDIS pursues three main goals (Tardy, T. & Ostanina, S., 2024). First, it aims to establish an EU defence budget through the EDIP to compensate for national reductions in defence expenditure. Second, it seeks to develop joint EU defence capabilities to create economies of scale. Third, it focuses on enhancing the EU's *strategic autonomy*.

In this regard, the strategy aims to achieve the following benchmarks by 2030:

- At least 40% of defence equipment procured collaboratively among Member States.
- Intra-EU defence trade representing at least 35% of the value of the EU defence market.
- At least 50% of defence investments within the EU to be procured by Member States (60% by 2035).

To achieve these objectives, the EDIS outlines five pillars:

##### **Pillar I:** Leveraging readiness through investment

The first pillar aims to redirect defence expenditure towards EU companies through three sets of measures. Firstly, by coordinating national defence investment plans across the EU via a Defence Industrial Readiness Board composed of Member States, the EDA, and the European

Commission. This board will oversee joint programming and procurement, develop defence projects of common interest, and facilitate government-to-industry dialogue. Secondly, by strengthening intra-EU cooperation through a new legal framework that incentivises collaborative projects and expanding the EDIRPA. Thirdly, by reducing acquisitions from non-EU defence industries through the creation of a European Military Sales Mechanism.

#### **Pillar II. Security Availability**

The second pillar seeks to ready the industry for emergency procedures, detailing two levels of supply crises. At the lower level, EDIS foresees priority rated orders that prioritise defence over civilian supplies. At the upper level, the EU may implement "necessary and proportionate" measures to mitigate the production crises, although these measures are not specified in EDIS. Other proposed measures in this area include incentivising the development of *ever-warm* facilities, potentially repurposing civilian production lines, and funding strategic stockpiling.

#### **Pillar III. Financing the Union's ambition for defence industrial readiness**

The third pillar focuses on increasing EU defence funding. In this regard, the EDIP is projected to receive €1.5 billion from the EDF between 2025 and 2027, with two-thirds allocated to capacity development and the remaining third invested in defence research. However, The EDIP is yet to be approved unanimously by the Council and by the European Parliament.

Furthermore, the EDIS calls for an "ambitious financial envelope on defence" for the next multi-annual financial framework of the EU (2028-2034). While the EDIS does not quantify the required amount, it urges the EU and Member States to determine this figure considering "the change of the security paradigm resulting from the steep increase of regional and global threats, representing potentially existential security challenges for the Union and its Member States". In January 2024, Internal Market Commissioner Thierry Breton suggested that the required EU defence fund would be around €100 billion (Wax, E. & Kayali, L, 2024, 9 January). The approval of these funding packages will depend on the positions within the incoming European Parliament resulting from the June 2024 elections.

#### **Pillar IV. Mainstreaming a defence readiness culture, including across EU policies**

The fourth pillar aims to facilitate access to financing and skilled labour for defence projects. It acknowledges that the defence industry can benefit from existing EU financial instruments,

such as the Cohesion Policy Funds, and aspires to amend EIB lending policies to permit financing for this industry while lowering barriers for private lenders and investors.

Notably, the EDIS affirms that the "EU sustainable finance framework is fully consistent with the Union's efforts to facilitate the European defence industry's sufficient access to finance and investment", thus attempting to reconcile the green transition with the enhancement of the EDTIB.

More broadly, this pillar seeks to ensure an adequate regulatory environment for the EDTIB. It emphasises that "defence considerations need to be mainstreamed in EU policies" (EDIS, para. 5.2).

#### **Pillar V.** Achieving readiness and resilience through partnerships

The fifth pillar focuses on strengthening cooperation and dialogue with *like-minded* third states, NATO and international organisations. It also includes promoting Ukraine's participation in the EU defence industry programmes.

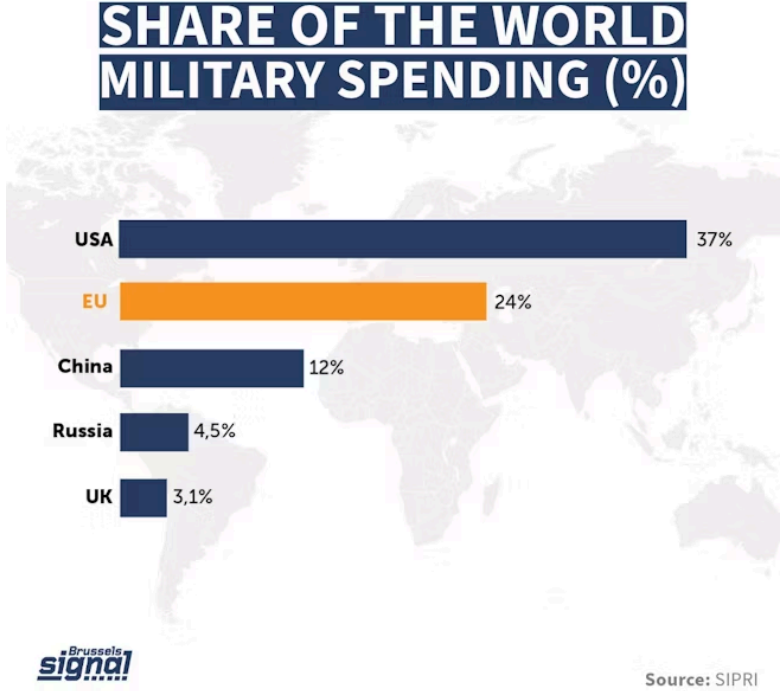
Overall, this ambitious strategy fully embraces the *war economy* approach, envisioning a massive mobilisation of public resources, the adaptation of political and legal frameworks, and the promotion of a *defence readiness* culture. It must be noted that human rights and democracy are not addressed throughout this strategy, except for a reference to *democratic values* used to justify EU defence readiness as a means to protect these values against the diverse security threats the EU faces.

Later in March 2024, the European Council issued a press release titled *If we want peace, we must prepare for war*. It unequivocally stressed the need to be "defence-ready and shift to a 'war economy' mode", claiming that the EU cannot "be at the mercy of election cycles in the US or elsewhere". In addition to maintaining the support to Ukraine, the European Council called for ramping up military production capacity, strengthening the EU arms market and finding new ways to finance the industry, such as through European defence bonds and loans from the EIB —suggesting to amend its mandate and lending policy to allow financing the production of dual-use goods—.

In April 2024, the EIB launched its Security and Defence Industry Action Plan, announcing updates to its policies and framework for lending to the security and defence industry (EIB, 2024).

In May 2024, Member States were reported to have collectively surpassed China in military spending, marking a 24% aggregate increase between 2022 and 2023 (Villamor, J., 2024, 1 May). Based on data from SIPRI for 2023, the graph below illustrates the share of global military spending by major actors, highlighting the ongoing trend of EU militarisation.

**Figure 11** - Share of the world military spending in % (2023)



Source: SIPRI (2023)

**4.2.3. Militarisation in the EU leadership discourse**

Beyond these policies and initiatives lies a prevailing narrative emphasising the need to consolidate a strong and independent EU arms industry. This is seen as essential for protecting Europe from increasing security threats, notably represented by Russia's war on Ukraine and Putin's aggressive rhetoric, without relying entirely on NATO/the USA, whose foreign policy remains uncertain following the November 2024 presidential election.

The EU's top officials unanimously support this view. EU High Representative Josep Borrell explicitly addressed the guns versus butter dilemma, stating "[o]ur society has to understand that they need to invest in defence. Everybody prefers butter to cannons but sometimes, if you do not have cannons, you do not have butter. That is important to bring to the mindset of the European people that defence expenditure is not just a waste of money. It is an existential

requirement for Europeans to face the challenges of our world" (Borrell, J., 2023, 11 November).

Similarly, President Ursula von der Leyen has repeatedly warned about the threats to Europe's security and advocated for increasing military expenditure. She has recently affirmed that "Europe must spend more, spend better, spend European", which will "give our defence industry companies very stable orders and most importantly predictability in the long run" (von der Leyen, 2024, 28 February).

Commissioner Thierry Breton exemplifies the shift to a more realist approach of the EU in international relations by stating, "From traditional soft power, [Europe] must progressively evolve towards hard power with the attributes that this requires" (Breton, T., 2022, 11 October), and more recently, asserting that the EU needs "to move into a 'war economy' mode" (Breton, T., 2023, 3 May).

Following the June 2024 European Parliament elections, this rhetoric is likely to be reinforced. Von der Leyen is set to remain as President of the European Commission, while Estonian Prime Minister Kaja Kallas is expected to be appointed as the new EU High Representative. Kallas, who has been on Russia's wanted list since February 2024 (Associated Press, 2024, 13 February), advocates for a strong stance against Russia and for deepening the EU militarisation process. In this regard, she recently stated, "[w]e have a very real threat to defend against. Europe is facing a critical moment that will shape our future for decades. We need to ramp up our defence industry and spending. With the right resolve and united effort, I believe we can succeed" (Kallas, K., 2024, 17 April).

Among Member State leaders, French President Macron has taken an increasingly hard stance against Russia, asserting that there should not be any "red lines" in the support to Ukraine, including the possible deployment of troops on Ukrainian soil (Maslanka, L., 2024). This contrasts with German Chancellor Scholz's more cautious rhetoric and decisions, focused on avoiding escalation and illustrated by his refusal to send Taurus long-range cruise missiles to Ukraine (DW, 2024, 26 February). Despite these differences, both leaders agree on the need to implement the Strategic Compass and work towards the EU's strategic autonomy and deeper military cooperation (Reuters, 2024, 23 May). Furthermore, although France maintains its longstanding stance on nuclear deterrence (see **section 2.1.1.2.4** above), Macron has suggested that French nuclear weapons should be part of the EU defence debate (Rosemain, M., 2024, 28 April).

Even before the 2022 Russian war of aggression against Ukraine spurred discussions on EU defence, Macron had outlined the concept of European sovereignty in 2017, against the backdrop of the Brexit vote and Trump's presidency. One of the cornerstones of his vision for Europe was defence, advocating for a European "joint intervention force, a joint defence budget, and a joint doctrine for action" (Macron, E. 2017, 26 September). To some observers, Macron's vision appears to have prevailed in the EU discourse, at least for the time being (Dempsey, J., 2024), while others perceive these aspirations as tempered by the ongoing reliance on NATO, underscored by the NATO-EU cooperation agreement signed in January 2023 (Brzozowski, A., 2023, 10 January). Furthermore, as 2024 progresses, the unity shown in the Versailles Declaration seems to be fading, with the different approaches of France, Germany, and other Member States towards the Russian threat emerging and posing the risk of fracturing the EU. As noted by Grevi, G. (2024, 18 April), "The fundamental question is whether the threat posed by Russia's war on Ukraine will ultimately forge or divide Europe".

#### **4.2.4. Critical approaches**

Despite the apparent consensus on the need to militarise the EU, there are critical voices from various standpoints.

First, Member States governed by eurosceptic leaders with ties to Russia maintain an ambivalent position. Notably, Orban's Hungary has been critical of NATO and EU support for Ukraine and has repeatedly blocked (or threatened to block) initiatives such as the use of EPF funds for the Ukrainian war effort (Barigazzi, J., 2024, 27 May). In July 2024, Orban visited Presidents Putin and Xi during Hungary's EU Council Presidency to pursue its own diplomatic agenda. This move sparked immediate criticism from EU officials and Member State leaders, many of whom publicly clarified that Orban's actions did not represent the EU's stance (Koromi, C. & Moens, B., 2024, 8 July). However, at the same time, Hungary is attempting to position itself as a leading arms manufacturer and a significant client for EU arms companies as it undertakes a modernization plan for its army (Barigazzi, J., 2024, 25 June). Consequently, Hungary has an interest in a strong and united EU arms market and industry, while simultaneously advocating for the preservation of defence policies within the realm of national sovereignty.

Second, similarly, other European far-right populist parties advocate for national defence strategies and oppose the establishment of a *defence union*, often citing concerns about the democratic legitimacy of EU institutions and the need to defend national approaches against a

"globalist agenda". Similar versions of this discourse can be found in statements from Marine Le Pen in France (Bourgery-Gonse, T., 2024, 21 May), the AfD in Germany (AfD, 2017, p.17), Lega in Italy (Lega, 2024, p.16), Vox in Spain (Vox, 2024, p.29-31), and the Partij voor de Vrijheid (PVV) in the Netherlands (PVV, 2023, p.36-37), to name a few notable examples. As these parties' influence grows both domestically and across Europe, they may represent a significant hindrance to the current EU defence policies —following Hungary's stance—.

Third, political parties on the left-wing of the European political spectrum, primarily those affiliated with The Left, oppose this European militarisation agenda for different reasons. Their criticism focuses on the excessive influence of arms companies and trade associations in EU policies, the increasing allocation of public resources toward arms at the expense of other public policies, the apparent contradiction between militarisation and EU's fundamental values, and the belief that an arms race will not bring peace but will escalate confrontations. MEP Demirel from the German Die Linke summarises their position stating, "The Left will continue to fight to protect policymaking from corporate greed. A militarised EU is against the founding Treaties of the EU. Weapons never bring peace" (Demirel, O., 2024, 18 April). Similarly, MEP Clare Daly considers that "the EU is now abducting funds meant for climate action and channelling them into armament and militarisation, a choice that only intensifies tensions and makes war more likely" (Pacheco, M., 2024).

Finally, echoing similar concerns, several NGOs have raised alarms about the EU's defence policies (Ruiz, A. et al., 2021), which can be broadly grouped around the following arguments:

Militarisation contradicts EU values and poses threats to peace and security. The increasing militarisation within the EU is argued to "call into question the EU as a peace project", "increase the risk of member states engaging in armed conflicts", and "exacerbate the global arms race" (Akkerman, M. & Maulewaeter, C., 2023, p.6).

Directing public and private funds towards the arms industry will divert resources from civilian purposes, such as social welfare. The financing for increased military expenditure is likely to come from external debt, revenue from the sale of natural resources, and/or increased taxes. Each of these options carries potential implications for economic growth, redistributive effects, income equality, and public expenditure on civilian purposes (Tian, N., Lopes da Silva, D. & Liang, X., 2023). In addition, such decisions may shift resources away from

"diplomacy and peacebuilding as alternatives to the use of force" (Akkerman, M. & Maulewaeter, C., 2023, p.28).

The relaxation of export controls could overshadow IHL and IHRL considerations. The EU arms industry heavily relies on exports. Enhancing this industry could incentivise states to prioritise promoting exports over tightening export controls, potentially neglecting humanitarian considerations associated with these exports (Akkerman, M., 2021, p.39). It is argued that "increased production capacity will require more outlets and loosened arms export rules that will further fuel war and repression around the world" (Akkerman, M. & Maulewaeter, C., 2023, p.6).

Increased militarisation may have adverse environmental impacts, and the arms industry's access to sustainable finance raises concerns about *green-washing*. NGOs anticipate that EU military public procurement will lead to increased carbon emissions and divert public funds and efforts from combating climate change (Pacheco, M., 2024). The military's carbon footprint is estimated to account for approximately 5.5% of global emissions (Parkinson, S. & Cottrell, L., 2022). However, the arms industry "has made a considerable effort to reframe its discourse and advocate for the integration of security and sustainability" and that "the narrative on the security-sustainability nexus is permeating European institutions" (Akkerman, M. & Maulewaeter, C., 2023, p.42).

Beneath all these arguments lies the common critique of the undue influence exerted by the arms industry in EU policies, as discussed in **section 3.3**, implying insufficient democratic legitimacy for these decisions, and a secondary role being given to CSOs and NGOs.

## 5. Conclusions

The international arms control architecture exhibits significant flaws and remains subordinated to geopolitical interests and strategic manoeuvring among states. However, some disarmament victories have been achieved taking advantage of periodic windows opened for multilateralism, especially after major confrontations. The prohibition of biological and chemical weapons, the agreements on non-proliferation of nuclear weapons, and the strict regulations on categories of conventional weapons such as landmines stand out as inspiring success stories, and demonstrated the crucial role of CSOs and international organisations.

Nevertheless, despite the adoption of the TPNW in 2017, the total ban of nuclear weapons is still far from reality, as no nuclear state intends to ratify it and the nuclear deterrence theory is now as relevant as ever post-Cold War. This places the EU at a crossroads: on one hand, the EU acts as an advocate of non-proliferation, disarmament and humanitarian law, and some Member States (Austria, Ireland) lead the efforts towards banning nuclear weapons. On the other hand, France and, in general, NATO countries view nuclear weapons as essential to maintain peace in Europe.

In addition, the rapid advancement of technologies introduces new methods and means of warfare at an increasingly fast pace, contrasting sharply with the slow and often hampered process of negotiating international norms to regulate these new weapons. This presents significant challenges for IHL and IHRL.

The regulation of arms trade also has relevant deficiencies from a human rights perspective. Although both the ATT and the EU Common Position require Member States to consider compliance with IHL and IHRL by recipients in their arms exports legislation and policies, these norms provide states with a considerable leeway and lack effective compliance verification mechanisms. Moreover, domestic courts are generally unable to scrutinise government actions in this area, creating an accountability gap. Consequently, Member States frequently consider economic and political factors in their arms exports decisions, sometimes at the expense of human rights concerns. An examination of EU arms embargoes further highlights this inconsistency in the application of human rights standards, illustrating the conflicting factors influencing restrictions on arms trade.

From an economic standpoint, the EU arms industry lags behind its peers in the USA and China. This can be attributed to the fragmentation of the EU defense market and the chronic

deficit in military expenditure within the EU. However, EU arms companies remain influential for several reasons. They provide numerous skilled jobs in high-value industries, and supply strategic goods and services for Member States.

Top industry players often operate at the intersection of public and private interests. Most are owned by industrial and/or financial private investors, with states holding significant stakes, and many are traded on stock exchanges. At the same time, states are their primary clients, with a high reliance on exports to non-EU countries. The confluence of public and private interests, combined with the triple role of states as co-investors, clients, and regulators, may create conflicts of interest. Additionally, this dynamic incentivises intensive lobbying efforts from arms companies and trade associations to EU lawmakers.

Russia's full-scale war on Ukraine initiated in February 2022 has evidenced that we live in a *complex multipolarity* world order, where the EU struggles to find its own voice due to internal and external tensions. This conflict has also acted as a *geopolitical reset* for the EU, serving as catalyst to accelerate a militarisation agenda that arguably began in 2016.

All things considered, Russia's threat to peace is real, Member States lack sufficient arms production capabilities in case of a major attack, and full reliance on USA/NATO protection might not be a safe choice if they turn towards isolationism. These factors justify the inclusion of the arms industry and military expenditure in the political agenda of the EU.

Beyond the current urgent needs, achieving strategic autonomy would reduce the influence of external actors, enabling the EU to develop a truly independent external action and establish itself as a distinct *pole* in the global order. However, this aspiration faces several challenges.

First, there are divisions among Member States and increasing support for *eurosceptic* discourses across Europe that emphasise national sovereignty over common EU action. In its most extreme form, this leads to *rogue* Member States, such as Orban's Hungary, which can cause paralysis under the current treaty architecture that requires unanimity for CSFP decisions and lacks mechanisms to avoid deadlocks. Addressing this problem requires substantial political will, starting with the general recognition that individual EU states may lack the power to be truly influential on the global stage, in a world where the main crises are fundamentally global.

Second, even if the EU were able to *speak with one single voice*, strategic autonomy itself is not inherently a value; it needs to be articulated within a meaningful and coherent discourse. The EU treaties provide a guiding framework. By defining the aim of the EU as promoting

peace, along with the values of human dignity, freedom, democracy, equality, the rule of law, and respect for human rights, they outline the essence of the EU; its *raison d'être*.

This framework should underpin all discussions about defence and security, recognising that the *guns versus butter* dilemma is neither binary nor solely economic. Examining the EU arms industry through the lens of human rights throughout this work has revealed several gaps that need to be bridged.

Member States should promote compliance with IHL by leading by example (e.g., by ratifying the 2008 Oslo Convention), and continuing to engage in multilateral nuclear disarmament discussions.

National arms export norms and policies should adhere to the principles outlined in the ATT and the EU Common Position. They should also be reinforced with clear language, robust verification mechanisms, transparency, and judicial review, to prevent EU arms from ending up in the hands of those who severely breach IHL and IHRL, or in countries where they are likely to be subject to diversion and illegal trafficking. This should be prioritised regardless of economic or political considerations if the EU aims to be a credible champion of human rights and a rules-based order.

Conflicts of interest in industry-state/EU relations should be properly prevented and managed. Transparency in lobbying activities is essential to avoid excessive interference.

Debates about military expenditure should be as democratic and transparent as possible, with meaningful participation from civil society and all relevant stakeholders. These decisions not only impact defense and security but also involve diverting public funds away from other critical public policies, such as the welfare state and efforts to combat climate change.

EU-wide mandatory HRDD should be tailored to the arms industry, and expressly cover downstream activities, such as the use, diversion or re-export of weapons by recipients.

A focus on defense and security must not undermine efforts to combat other pressing crises such as climate change. Relaxing environmental standards for the arms industry is counterproductive and short-sighted.

Multilateralism, diplomacy and cooperation should remain the primary means to resolve international conflicts, avoiding escalation and *arms races*.

In essence, while the EU proclaimed *principled pragmatism* as a guiding principle in its Global Strategy in 2016, this work suggests reversing the terms: *pragmatic principledism*, as the basis of EU's discourse and actions compatible with the treaties and with its *soul*.

Observing the various dimensions of the EU arms industry from the perspective of human rights provides a unique and coherent analytical framework —distinct from those proposed by the dominant realist discourse and critiques ranging from the utopian to those serving national or foreign interests—. This *lens* helps to establish red lines and order preferences amid a chaos of conflicting interests. It exposes deficiencies in both international and EU legislation, offering pathways for improvement and serving as a foundation for multilateral discussions on new arms control norms, where a unified EU voice would be crucial. It also suggests integrating transparency and democratic decision-making into institutional-industry relationships and advancing towards mandatory HRDD to address the accountability gap in this industry. Lastly, it serves as a guiding light for EU defence and security policies, grounded in its foundational values, potentially enabling the EU to articulate an independent and solid external action in a world marked by complex multipolarity.

## 6. Annex 1 - Summary of EU arms embargoes

Target	Entry into force	Establishing document	Note
Belarus	20 June 2011	EU Council Decision 2011/357/CFSP	
CAR	23 December 2013	EU Council Decision 2013/798/CFSP	In addition, the CAR is subject to a mandatory UN arms embargo since 5 December 2013 (UNSCR 2127).
China	27 June 1989	EU Council of Ministers Declaration on China (1989)	Due to the ambiguity regarding the items covered under this embargo, different interpretations have been adopted among Member States. Notably, France has interpreted that the embargo only covers lethal items and not other equipment with military applications, such as helicopters (Millon, Ch., 1997, 8 April).
DRC	7 April 1993	EC Declaration N° 33/93  Council Regulation (EC) No 1727/2003	In addition, DRC is subject to a mandatory UN arms embargo since 28 July 2003 (UNSCR 1493). Since then, the EU embargo is limited to non-state armed groups operating in the DRC.
Egypt	21 August 2013	EU Council conclusions on Egypt, 21 August 2013	This arms embargo is a political commitment rather than a legally binding measure, as it was not established through a Council decision or regulation. Consequently, Member States have continued to supply arms to Egypt since 2014.
Iran	23 April 2007	EU Common Position 2007/246/CFSP  EU Council Regulation No 359/2011	EU embargoes on Iran include those imposed in 2007 in connection with Iran's nuclear program and those related to human rights violations, which were imposed in 2011 and are regularly updated.
Iraq	4 August 1990	European arms embargo on Iraq (1990)	In addition, Iraq has been subject to a mandatory UN arms embargo since 6 August 1990 (UNSCR 661).

		EU Common Position 2003/495/CFSP	Since 2004, the UN and EU embargoes are limited to non-state armed groups operating in Iraq.
Lebanon	15 September 2006	EU Common Position 2006/625/CFSP	In addition, Lebanon is subject to a mandatory UN arms embargo since 11 August 2006 (UNSCR 1701). These embargoes are limited to non-government forces.
Lybia	28 February 2011	EU Council Decision 2011/137/CFSP	In addition, Libya is subject to a mandatory UN arms embargo since 26 February 2011 (UNSCR 1970). These embargoes are limited to non-government forces.
Myanmar	29 July 1991	Informal decision among Member States confirmed by EU Common Position 1996/635/CFSP	
North Korea	22 November 2006	EU Common Position 2006/795/CFSP	In addition, North Korea has been subject to a mandatory UN arms embargo since 14 October 2006 (UNSCR 1718).
Russia	31 July 2014	EU Council Decision 2014/512/CFSP	In 2022, the restrictions were amended to also cover "goods and technology which might contribute to Russia's military and technological enhancement, or the development of the defence and security sector".
Somalia	10 December 2002	EU Common Position 2002/960/CFSP	In addition, Somalia is subject to a mandatory UN arms embargo since 23 January 1992 (UNSCR 733).
South Sudan	18 July 2011	EU Council Decision 2011/423/CFSP	In addition, South Sudan is subject to a mandatory UN arms embargo since 13 July 2018 (UNSCR 2428).
Sudan	15 March 1994	EU Council Decision 94/165/CFSP	In addition, Sudan's Darfur region is subject to a mandatory UN arms embargo since 30 July 2004 (UNSCR 1556).
Syria	9 May 2011	EU Council Decision	

		2011/273/CFSP	
Venezuela	13 November 2017	EU Council Regulation 2017/2063	This embargo excluded transfers under contracts signed before 13 November 2017.
Yemen	8 June 2015	EU Council Regulation 2015/878	In addition, Yemen is subject to a mandatory UN arms embargo since 14 April 2015 (UNSCR 2216).
Zimbabwe	18 February 2002	EU Common Position 2002/145/CFSP	

Source: Compiled on the basis of the norms and resolutions indicated in the table

## 7. List of abbreviations

<b>Abbreviation</b>	<b>Definition</b>
AfD	Alternative für Deutschland
ASAP	Act in Support of Ammunition Production
ASD	AeroSpace and Defence Industries Association of Europe
ATT	2013 Arms Trade Treaty
BWC	1972 Biological Weapons Convention
C4I	Command, control, communications, computers, and intelligence
CAR	Central African Republic
CARD	Coordinated Annual Review on Defence
CCW	1980 Conventional Weapons Convention
CFSP	Common Foreign and Security Policy
CSDDD	Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859
CSDP	Common Security and Defence Policy
CEO	Chief Executive Officer
CSO	Civil Society Organisation
CWC	1993 Chemical Weapons Convention
DG DEFIS	Directorate-General for Defence Industry and Space
DRC	Democratic Republic of the Congo

EDA	European Defence Agency
EDF	European Defence Fund
EDIDP	European Defence Industrial Development Programme
EDIP	European Defence Industry Programme
EDIRPA	European Defence Industry Reinforcement through Common Procurement Act
EDIS	European Defence Industrial Strategy
EDTIB	European Defence Technological and Industrial Base
EIB	European Investment Bank
ENAAT	European Network Against Arms Trade
ENCD	Eighteen Nation Committee on Disarmament
EPF	European Peace Facility
EU	European Union (including former European Communities)
EUGS	Global Strategy for the European Union's Foreign and Security Policy
GDP	Gross Domestic Product
HRDD	Human Rights Due Diligence
IAEA	International Atomic Energy Agency
ICAN	International Campaign to Abolish Nuclear Weapons
ICRC	International Committee of the Red Cross
ICTY	International Criminal Tribunal for the Former Yugoslavia
IED	Improvised Explosive Device

IHL	International Humanitarian Law
IHRL	International Human Rights Law
MEP	Member of the European Parliament
NATO	North Atlantic Treaty Organisation
NGO	Non-Governmental Organisation
OPCW	Organisation for the Prohibition of Chemical Weapons
OSCE	Organisation for Security and Co-operation in Europe
MPCC	Military Planning and Conduct Capability
NPT	Non-Proliferation Treaty
PADR	Preparatory Action on Defence Research
PESCO	Permanent Structured Cooperation
SALW	Small Arms and Light Weapons
SIPRI	Stockholm International Peace Research Institute
SDIP	Security and Defence Implementation Plan
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
TNCD	Ten Nation Committee on Disarmament
TPNW	Treaty on the Prohibition of Nuclear Weapons
UAE	United Arab States
UAMA	Unit for the Authorisations of Armament Materials ( <i>Unità per le Autorizzazioni dei Materiali di Armamento</i> )
UK	United Kingdom

UN	United Nations
UNGA	United Nations General Assembly
UNGPs	United Nations Guiding Principles on Business and Human Rights
UNODA	United Nations Office for Disarmament Affairs
UNSC	United Nations Security Council
USA	United States of America
WGBHR	United Nations Working Group on Business and Human Rights
WMD	Weapons of Mass Destruction

## 8. List of defined terms

Term	Definition
1899 Hague Declaration (IV, 2)	Declaration (IV,2) concerning Asphyxiating Gases. The Hague, 29 July 1899
1907 Hague Convention (IV)	Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land, 18 October 1907
1919 Treaty of Versailles	Treaty of Peace between the Allied and Associated Powers and Germany, 28 June 1919
1925 Geneva Protocol	Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare, 17 June 1925
1972 Biological Weapons Convention	Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, 10 April 1972
1972 Anti-Ballistic Missile Treaty	Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, 26 May 1972
1980 Conventional Weapons Convention	Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, 10 October 1980, as amended on 21 December 2001
1987 Intermediate-Range Nuclear Forces Treaty	Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, 8 December 1987

1993 Strategic Arms Reduction Treaty	Treaty between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (START II), 3 January 1993
1993 Chemical Weapons Convention	Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, 13 January 1993
1997 Ottawa Convention	Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, 3 December 1997
2008 Oslo Convention	Convention on Cluster Munitions, 3 December 2008
2013 Arms Trade Treaty	Arms Trade Treaty, 2 April 2013
Council	The Council of the European Union
Directive 2009/43/EC	Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community
EU Common Military List	Common Military List of the European Union adopted by the Council on 19 February 2024 (equipment covered by Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment), which updates and replaces the list adopted on 20 February 2023.
EU Common Position	Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment
EU High Representative	The High Representative of the Union for Foreign Affairs and Security Policy
Member States	The Member States of the European Union

New START Treaty	Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, 8 April 2011
Non-Proliferation Treaty	Treaty on the Non-Proliferation of Nuclear Weapons, 1 July 1968
Regulation (EU) 2021/821	Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items
Treaty on European Union	Consolidated version of the Treaty on European Union
Treaty on the Functioning of the European Union	Consolidated version of the Treaty on the Functioning of the European Union
Treaty on the Prohibition of Nuclear Weapons	Treaty on the Prohibition of Nuclear Weapons, 7 July 2017
UN Charter	Charter of the United Nations, 26 June 1945
Wassenaar Arrangement	Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, 12 July 1996

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