AUGUSTAABOGADOS

NEWSLETTER

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EUROPEAN DEFENCE 2030: LESS BUREAUCRACY, MORE FLEXIBLE PROCUREMENT AND NEW OPPORTUNITIES FOR THE INDUSTRY

Executive summary of the legislative package published in the OJEU of 3 November 2026

IN THIRTY SECONDS. The EU passes a legislative package that combines a fast track to authorise industrial investment, new general licences for intra-EU transfers, more flexible procurement procedures, simplifications of the European Defence Fund and the new AGILE programme for SMEs. The package opens up real opportunities, but maintains strict requirements on corporate control, export control, classified information, intellectual property and environmental compliance.

The Official Journal of the European Union of 3 November 2026 publishes a regulatory package aimed at accelerating investment, innovation, production and circulation of defence products within the European Union. The measures affect both traditional operators and SMEs, technology companies and civil or dual-use companies seeking to enter this market. The aim is to strengthen the European defence industrial and technological base (EDBT), reduce strategic dependencies and achieve an adequate level of defence preparedness by 2030. The regulation mentions as context a planned investment of at least €800 billion over the next four years. The package consists of three EU regulations, a directive and a joint declaration by the EU Parliament and Council. The purpose of this note is to summarise and systematise its main provisions and developments.

The content of this publication is for informational purposes only and should not be used as a basis for decision-making; in such cases, specific legal advice should be sought.

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1. 1. ACCELERATED AUTHORIZATIONS FOR INDUSTRIAL INVESTMENTS

Regulation (EU) 2026/2381 creates a specific procedure for "defence readiness projects". The concept includes activities, investments and measures aimed at improving the ability of one or more Member States to anticipate, prevent or respond to defence-related crises, including the development or modernisation of industry. Each State shall decide which projects receive this classification.

The scope is broad: new plants, expansion or conversion of facilities, test centres, research and development, prototyping, training, certification and technology transfer. The "defence industry" includes not only manufacturers, but also service providers directly related to defence products throughout their life cycle.

One-stop-shop, calendar and positive silence

Each Member State shall establish or designate, by 24 February 2027, one or more single points of contact. This interlocutor shall coordinate the authorities involved, provide information on the documentation required and notify the overall decision. The submission and exchange of documents shall be able to be carried out electronically.

The contact point will have 14 working days to confirm whether the application is complete. From that confirmation, the procedure may not exceed, as a general rule, 42 working days. In exceptional cases, due to the complexity, location or dimensions of the project or due to extraordinary risks to health, safety or the environment, up to two extensions may be agreed, with a total limit of 102 working days.

If the deadline expires without a decision, the authorisations will be deemed to have been granted. States may exclude this positive silence only in limited cases, assessed on a case-by-case basis and based on a serious risk to human health or national security. The Regulation will apply to applications submitted from 24 February 2027.
The practical implication of the new rule is clear: for a company that wants to open or expand its production capacity, convert civilian facilities or create a test centre, the first strategic issue will be to obtain the national qualification of a "defence readiness project". The advance preparation of environmental studies and a complete application will be decisive, because the 42-day period begins only when the dossier meets all the required documentation.

2. 2. EASIER INTRA-EU TRANSFERS

Directive (EU) 2026/2383 (amending two directives from 2009) expands the situations in which States can exempt transfers of defence products within the EU from prior authorisation. These include transfers between certified companies; those necessary for PESCO/CEP projects, SEAP, European projects of common interest or EU-funded industrial programmes; those carried out within structured intra-EU industry partnerships; those motivated by a crisis; and those intended for repair, maintenance, exhibition or demonstration.

Two new routes that are particularly relevant

With this rule, which must be transposed into our domestic law no later than November 24, 2027 and applied, at the latest, from February 24, 2028, two significant paths are opened.

First, states should publish general licences covering all transfers necessary to implement projects funded by EU defence industrial programmes. They may extend them to later stages of the life cycle. Where the financing agreement already incorporates appropriate commitments, no additional end-use commitments or export limitations should be required.

Second, states will have to issue general licences for transfers within a "structured intra-EU industrial partnership": a stable collaboration between entities from different Member States, for example a group, consortium or joint venture, involved in the design, development, production, assembly, supply, marketing or support of a defence product. These licences will include intangible transfers of software and technology.

The certification extends to suppliers and recipients and requires experience, a history of compliance and an internal control program that covers responsibilities, auditing, training, information security, traceability and transaction control.

As a result, certification and a strong internal compliance program become commercial instruments: they facilitate transfers, reduce administrative friction and improve the company's position to integrate into European consortia and supply chains.

3. 3. PUBLIC PROCUREMENT: MORE FLEXIBILITY AND NEW GATEWAYS

The same Directive reforms public procurement for defence and security. The thresholds for the application of Directive 2009/81/EC are increased from €432,000 to

€2 million for certain supply and service contracts and from €5,404 million to €10 million for works. Below these amounts, the principles of transparency, equality, non-discrimination and proportionality continue to apply, but States will have more leeway to simplify procedures, which are as follows:

Instrument	Business Utility
Open procedure	It allows any interested operator to submit bids.
Dynamic acquisition system	Electronic system, open during its validity, for purchases of current use; facilitates the subsequent incorporation of new suppliers.
Partnership for Innovation	It combines the development of a solution not yet available and its subsequent purchase if it achieves agreed performance and cost.
Cross-border joint purchasing	Authorities of several States may jointly contract or use purchasing centres of another Member State.
Framework agreements	Maximum ordinary duration extended from seven to ten years.

Modifications of contracts without a new tender are also regulated. Among other cases, additional supplies, works or services from the original contractor or changes due to unforeseeable circumstances may be admitted, with limits that can reach 50% of the initial value. Likewise, it is made easier for EU-funded R+D programmes to continue towards subsequent phases of procurement under the exclusion applicable to cooperative programmes.

With the new procedures, startups and dual-use companies will have more innovation-friendly ways to market their products or services. However, this means that they must be attentive to the publicity of dynamic systems, innovation

partnerships and framework agreements, as the commercial opportunity will depend on joining at the right time and category.

4. 4. FEWER REGULATORY BARRIERS AND A MORE FLEXIBLE EDF

Regulation (EU) 2026/2382 allows States to provide, where necessary for defence reasons, derogations from certain obligations under REACH and from the rules on classification, labelling and packaging of substances and mixtures and on biocidal products. This is not a general exemption from the REACHl system: it must be justified by defence needs and a high level of health and environmental protection must be preserved.

The reform also simplifies the European Defence Fund (EDF): clearer and more adaptable award criteria have been introduced for each call, specific support for disruptive technologies and R+D activities of SMEs, greater flexibility for indirect management, annual or multiannual work programmes and, exceptionally, funding without a call when there is a sufficient legal basis. The legislative package strengthens incentives for SMEs, especially cross-border SMEs, and certain costs of tests carried out with Ukrainian entities are allowed.

The new regulatory framework advises companies to monitor multiannual work programmes and design consortia in which the real participation of SMEs, especially from other Member States, improves both the technical proposal and the financing intensity.

5. 5. AGILE: FAST FINANCING FOR SMES AND DISRUPTIVE TECHNOLOGIES

Regulation (EU) 2026/2387 creates the Programme for Agile and Rapid Innovation in Defence (AGILE), operational during 2027 and indicatively endowed with €115 million. It is mainly aimed at SMEs, including startups and scale-ups, to accelerate emerging and disruptive products, including by adapting dual-use civilian technologies. The intention is to reach solutions usable by end users in one to three years.

This programme may support product and component development, field testing and demonstrations, qualification, certification, access to infrastructure and manufacturing, investment preparation, capacity building and cooperation with main contractors, integrators and Tier 1. In specific cases, costs may be financed to transfer the establishment or executive management of an SME to the EU or an associated country.

AGILE provides for an accelerated assessment, initial declarations from applicants, lump sums and funding of up to 100% of the eligible costs. It may cover activities started up to three months before the closing of the call, provided that they have not been completed before the signing of the agreement.

Conditions that should be reviewed before applying for financing

- In general, the beneficiary must be an SME established in the EU or in an associated country and have its executive management there.
- It may not be controlled by an unassociated third country or by an entity of that country.
- The infrastructure, assets and resources used should in principle be located in the EU or in associated countries.
- The results may not be subject to control or restrictions by non-associated third countries.

- The transfer or exclusive license of results to these countries for three years after the final payment will be subject to safeguards and may involve repayment of the aid.

6. 6. WHAT COMPANIES SHOULD DO NOW

The interest of many Spanish industrial sectors in progressively integrating into the defense sector is well known, and the recently approved package opens important doors. At Augusta Abogados we believe that the following actions may be of interest to both companies already established in the sector and for "new entrants":

1. Identify investments that can be classified as defense readiness projects and prepare a complete dossier in advance, including the required environmental studies.
2. Review the ownership and control structure, the location of management and critical assets, and third-country restrictions on technology or intellectual property.
3. Implement or reinforce an internal transfer and export control program, with traceability, product classification, parts screening and training.
4. To analyze whether certification as a supplier or recipient can facilitate participation in European chains and structured industry associations.
5. Monitor EDF work programmes, AGILE, dynamic procurement systems, innovation partnerships and relevant framework agreements.
6. Negotiate intellectual property, access rights of co-financing authorities, end-use conditions and restrictions on subsequent transfers from the outset.

Admittedly, the package does not remove industry-specific controls, but it arguably shifts the balance between control and speed. For ready-made companies, it offers a rare combination of accelerated authorisations, simplified intra-EU transfers, more flexible procurement and innovation-oriented financing. The competitive advantage will lie with those who combine technology and industrial capacity with an eligible corporate structure, robust export control compliance and an early strategy for access to public programmes and buyers.

It should be noted that the Joint Declaration of the European Parliament and the Council accompanying the package confirms that the measures adopted should be understood as a step within a broader reform process. Both institutions recognise that obstacles remain to achieving a genuine European defence market and call on the Commission to consider further initiatives to strengthen the European defence industrial and technological base, further simplify intra-EU transfers and further review defence procurement. The Declaration also points to two issues that are expected to remain on the legislative agenda: the possible introduction of specific eligibility criteria favouring procurement with European industry and a more harmonised application of the simplification of transfers between Member States. From our point of view, the message to be taken away is that the European defence regulatory framework is in full evolution and further measures aimed at favouring production, supply chains and procurement within the EU can be expected.

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