

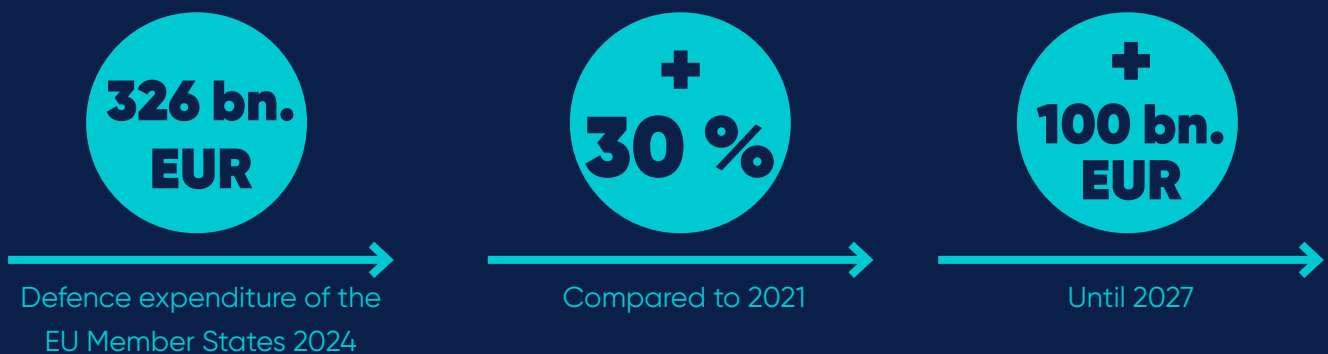
Breaking new ground

Successful market entry
into the defence sector

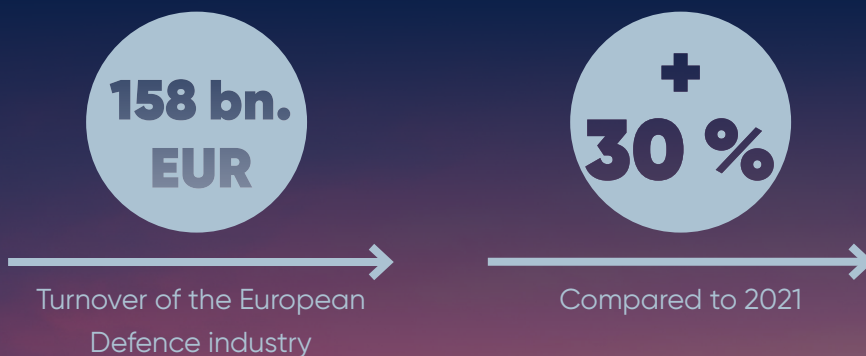


The defence sector is becoming increasingly attractive for companies from civilian industries. For companies from economically ailing sectors, such as the automotive industry, it could represent a strategic opportunity to overcome economic challenges.

While European industry as a whole is struggling with stagnating growth, the defence sector is experiencing a boom. Between 2021 and 2024, the annual growth in EU Member States' defence spending rose by more than 30% to EUR 326 billion. It could increase by a further EUR 100 billion by 2027.



In the same period, sales in the European defence industry rose by almost 30% to EUR 158.8 billion.



A two-fold increase would have been possible if there had been sufficient production capacity. In view of the continuing high demand, the industry is destined to grow.

Entering the highly regulated defence sector offers great opportunities for growth, but also presents companies with a number of complex challenges.

The challenges

Market access and competitive environment

Access to the defence market is largely determined by political framework conditions and tendering procedures, and therefore requires the development of relationships with government authorities and key players in the defence industry.

Technological requirements and financial investments

The requirements for processes, materials, production techniques and quality standards differ considerably from those of many civilian industries. Building up the necessary infrastructure and expertise requires considerable financial resources.

Corporate governance, image and ethics

Companies must carefully consider how they deal with the potential impact of their business activities in the defence sector on their brand and reputation.

Legal challenges

Public pricing law: As a contracting authority, the Bundeswehr is subject to public pricing law, which means that companies must fulfil certain obligations to provide evidence regarding pricing.

Public procurement law: There are special provisions in public procurement law for defence and security contracts. In addition, the Bundeswehr has increasingly applied accelerated awarding which are direct awards without a formal procedure.

Export control and sanctions: Strict legal requirements apply to ensure that military goods are not exported to conflict regions or

to unauthorised parties. Companies must also observe international sanctions that restrict trade with certain countries or organisations and can have significant legal consequences in the event of violations.

War Weapons Control Act: If a product is classified as a war weapon, licences are required, as its manufacture would be punishable without them. However, according to the coalition agreement, the CDU/CSU and SPD want to focus more on supply contracts and purchase guarantees in particularly critical areas.

Legal requirements in supplier relationships: Existing contracts must be reviewed and adapted and new legal requirements on product safety and due diligence (LkSG) must be observed. Compliance measures such as supplier audits and non-disclosure agreements are crucial to minimising legal risks.

Confidentiality and security precautions: Companies must expect regular security checks on their employees. The handling of state secrets and classified information is subject to strict regulations.

Competition law aspects of co-operations: Co-operations and joint ventures are widespread in the defence sector, but restrictions of competition must be prevented or justified.

Sustainability and financing options: Since last year, it has also been possible for so-called ESG funds to invest up to 20% of their capital in areas that are not considered sustainable. The exception only applies to weapons outlawed under international law, which are considered "controversial weapons".



Support for entry into the defence sector

Thanks to our many years of advising in the aerospace and defence sector, we are very familiar with the project-related requirements and working methods of companies in this area. As one of the few full-service law firms with a proven focus in the aerospace and defence sector, we know the challenges that companies face. We know exactly what legal risks can arise in the defence sector and are able to address all relevant legal risks with regard to entering the sector:

- **Tendering procedures and procurement projects:** Conducting and participating in public tenders, large defence procurement projects
- **Design and supply contracts:** Drafting and negotiating contracts for the design and supply of defence technologies, systems and services
- **Export control and sanctions:** Compliance with export control regulations, sanctions and international trade regulations
- **Public price law:** Review of cost accounting for public contracts
- **Audits and quality requirements:** Review in the context of government audits and NATO quality requirements
- **Confidentiality and security clearance:** Compliance with confidentiality requirements, security clearance of project staff in accordance with the country list under the Security Clearance Act
- **IP and licensing:** Intellectual property and licensing arrangements under government and/or NATO contracts, in particular in relation to Vector AI and the innovation platform for drone technology and robotics and ISR systems
- **Cybersecurity:** Government, regulatory and military IT security for Software Defined Defence – also regarding transfer to the supply chain
- **Obsolescence management:** Strategies for identifying and managing component aging and availability
- **Compensation regulation (offset):** Requirements for local production or investment, selection of partners and suppliers, as well as ensuring compliance with national and international regulations
- **Cooperations and consortia:** Development and negotiation of cooperation agreements
- **M&A including joint ventures and mergers:** Mergers, acquisitions and the establishment of joint ventures in the defence sector
- **Financing:** Structuring and design of financing models



Thanks to many years of advising leading companies in the defence sector and public authorities, our team has the expertise to master regulations and market dynamics in equal measure. In recent years, we have supported many major projects, e.g. the construction of combat systems in all military dimensions such as frigates, corvettes and submarines, battle tanks, howitzers, armoured infantry combat vehicles, combat and military transport aircrafts, combat and heavy duty transport helicopters, air defence systems, software-defined radio and satellites.

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