

# Control of the acquisition and possession of weapons

## SUMMARY

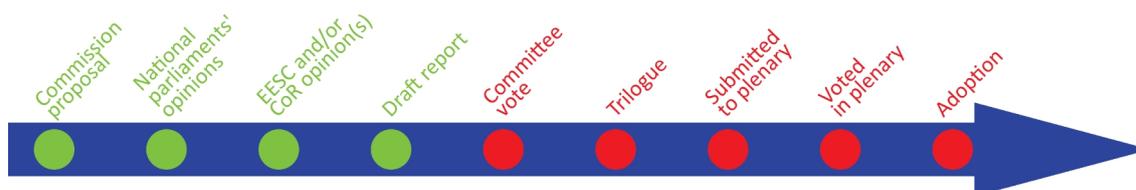
In the aftermath of the Paris terrorist attacks, in November 2015 the European Commission presented a package of measures aiming to tighten control on the acquisition and possession of firearms in the European Union, improve traceability of legally held firearms and enhance cooperation between Member States, as well as ensure that deactivated firearms are rendered inoperable.

The proposal to amend the current 'Firearms Directive' (Directive 91/477/EEC) was part of this package. It aims to ban some semi-automatic firearms for civilian use, as well as to include some previously excluded actors (collectors and brokers) and blank-firing weapons within the scope of the Directive. Stakeholders commented particularly on the proposed ban on some semi-automatic firearms and the obligation for collectors to deactivate firearms.

The Justice and Home Affairs Council held a debate on the file in March 2016. Parliament's Market and Consumer Protection (IMCO) Committee is expected to adopt its report in June 2016.

## Proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons

<i>Committee responsible:</i>	Internal Market and Consumer Protection (IMCO)	COM(2015)750 of 18.11.2015
<i>Rapporteur:</i>	Vicky Ford (ECR, United Kingdom)	<i>procedure ref.:</i> 2015/0269(COD)
<i>Next steps expected:</i>	Adoption of IMCO report: 27 June 2016	Ordinary legislative procedure



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## Introduction

On 18 November 2015, the European Commission presented a [package](#) of measures<sup>1</sup> that sought to tighten control on the acquisition and possession of firearms in the EU, improve traceability of legally held firearms and enhance cooperation between Member States, as well as ensure that deactivated firearms are rendered inoperable. These measures, foreseen in the [European Agenda on Security](#) of April 2015, consist of the [proposal for a directive amending Directive 91/477/EEC](#) on control of the acquisition and possession of weapons, published alongside the [report on the evaluation of Directive 91/477/EEC](#), and the [Implementing Regulation](#)<sup>2</sup> establishing common guidelines on deactivation standards and techniques for ensuring that deactivated firearms are rendered irreversibly inoperable.

Due to the Paris terrorist attacks in November 2015 and the earlier attacks in [Paris](#) and [Copenhagen](#), and in light of the aim to strengthen the fight against trafficking of firearms in a coherent way, the Commission decided to advance the review of the EU rules on firearms, which had initially been planned for 2016 under the [Commission Work Programme 2016](#).<sup>3</sup>

## Context

The currently applicable [Directive 91/477/EEC](#) on control of the acquisition and possession of weapons ('Firearms Directive'), (amended by [Directive 2008/51/EC](#)<sup>4</sup>), sets rules on the acquisition, possession, movement and transfer of different categories of firearms for civilian use in the EU, while granting more flexible rules for hunting and target shooting. It does not apply to the acquisition or possession of weapons and ammunition by the armed forces, police, public authorities, collectors and bodies concerned with the cultural and historical aspects of weapons, nor does it concern commercial transfers of weapons and ammunition of war.

The 2013 [Flash Eurobarometer survey](#) on firearms in the EU, conducted among 26 555 respondents from the EU-28, showed that **5% own a firearm**, while **another 5% used to own one**. Some 90% have never owned a firearm. According to the survey, Cyprus has the highest incidence of firearms ownership in the EU – with three out of 10 respondents stating they either own or used to own a firearm. More men than women stated that they own or have owned a firearm, and most people who own firearms do so for hunting, sports or professional reasons. Some **53% of respondents supported stricter regulation** of who is allowed to own, buy or sell firearms in their country, while 39% favoured other ways of reducing the level of firearms-related crime. The survey also indicated that respondents who own firearms are less likely to support stricter regulation compared to non-owners.

A 2014 [external study](#) produced for the European Commission to support an impact assessment on options for combatting illicit firearms trafficking in the EU indicates that it is hard to assess the nature and scale of illicit firearms trafficking in the EU given its hidden nature. It estimates that there could be around **67 million unregistered firearms in the EU** and that over the past decade, illicit firearms trafficking has been directly responsible for at least 10 000 firearms-related deaths in the EU. The study also identifies **the main sources of illegal weapons in the EU** as being the reactivation of neutralised weapons, burglaries and thefts, embezzlement of legal arms, legal arms diverted to the illegal market, firearms retired from service by army or police, and the conversion of gas pistols. According to the Commission, firearms are also used in over [4 000 suicides](#) each year in Europe.

A [2015 Flemish Peace Institute report](#) on firearms and violent deaths in Europe estimates that in 2007 **civilians in the EU possessed approximately 79.8 million firearms**. The report also states that there are **currently at least 25 million gun owners** in the EU, mainly men. Europeans mainly own rifles (for example, hunting rifles) and to a lesser degree handguns such as pistols and revolvers. In absolute figures, a large number of these firearms are thought to be owned in Germany (25 million) and France (19 million), although some countries like Finland, Cyprus or Sweden have higher gun ownership rates per capita. According to the report, approximately **6 700 people** in the EU **die each year** from gunshot wounds. Data analysis by the World Health Organization (WHO) for the 2000-2012 period quoted in the report shows that almost three quarters of reported firearms-related deaths in Europe were the result of successful suicide attempts. In the same period, **homicides accounted for 15% of firearms-related** deaths in Europe. The report also establishes a relationship between firearm possession and the number of deaths by firearms, clarifying that in countries with more firearms, there are usually more deaths by firearms.

### Existing situation

The existing EU legislative framework on firearms mainly derives from the [UN Firearms Protocol](#) incorporated in the EU *acquis* with [Regulation 258/2012](#). The main provisions of the Firearms Directive (as amended by Directive 2008/51/EC) concern the classification of firearms and corresponding rules for their acquisition and possession. In line with the Firearms Directive, there are [four categories](#) of firearms:

- **category A** (fully automatic weapons and military weapons) cannot be owned by private persons unless they have been deactivated;
- **category B** (repeating and semi-automatic firearms) can be owned by private persons subject to *authorisation*;
- **category C** (less dangerous repeating and semi-automatic firearms and single-shot firearms used mainly by hunters) can be owned by private persons subject to *declaration*<sup>25</sup>
- **category D** (single-shot long firearms with smooth-bore barrels) can be owned by private persons and are not subject to authorisation or declaration.

Regarding the marking and traceability of firearms, it is the Member States that need to ensure that any firearm or its part placed on the EU market has been marked and registered. They also need to have in place national computerised data-filing systems to reinforce the traceability of firearms. Member States are obliged to introduce national procedures for the deactivation of firearms that render the weapons permanently inoperable, which needs to be verified by a competent authority. Accordingly, permanently deactivated arms are no longer considered arms and as such can be held by private persons and move freely within the internal market. Member States however have the possibility to adopt more stringent rules than those prescribed in the Firearms

Directive. The 2015 Commission [evaluation](#) report on the Firearms Directive as well as other studies identified several problems in relation to its provisions. Namely, an unclear definition of convertibility with no common understanding of which types of alarm weapons can be converted into operable firearms; lack of common guidelines on deactivation standards; non-harmonised rules on marking, making tracing difficult in relation to cross-border offences, and so forth. The report also [concluded](#) that some semi-automatic arms can easily be converted to automatic arms and that the Firearms Directive does not provide any technical criteria to prevent such conversion. It suggested possible solutions to address these problems, which served as a basis for the new legislative proposal by the Commission.

### The changes the proposal would bring

The new [proposal](#) broadens the scope of the Firearms Directive to include collectors and brokers, and adds new categories of firearms into the current classification, while also proposing some changes to it (for instance, moving the current category B7<sup>6</sup> of firearms under category A).

Collectors, as defined by national law, are presently excluded from the scope of the Firearms Directive.<sup>7</sup> Under the new proposal, collectors would be covered by new legislation and should still have the possibility to acquire firearms, but under the same authorisation or declaration requirements as private persons. Brokers would also be brought into the scope of the Firearms Directive, as they provide services similar to those of dealers. Accordingly, Member States would have to introduce regulations covering the registration, licensing and/or authorisation of brokers and dealers operating within their territory.

Blank-firing weapons (that is, alarm and signal weapons, salute and acoustic weapons, replicas) would also be included in the scope of the Firearms Directive, because of their potential to be transformed into firearms. The proposal envisages stricter rules for current category B7 semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms (such as the typical Kalashnikov), and moves them from category B to category A. More precisely, the proposal classifies the current category B7 as A7, which means that certain semi-automatic firearms<sup>8</sup> would be banned for civilian use and would not, under any circumstances, be allowed to be held by private persons, even if they have been permanently deactivated.<sup>9</sup> The proposal also introduces a new category A6 for automatic firearms which have been converted into semi-automatic firearms (and can, according to the Commission, be easily converted back into fully automatic firearms), and prohibits such firearms for civilian use.

Additional restrictions on the use and circulation of deactivated firearms are planned as well. For instance, Member States would need to keep records of deactivated firearms and their owners in national registries. Civilians would also no longer be authorised to own any of the most dangerous firearms falling under category A – even if they have been deactivated (new category A8), which is currently possible. Member States will be able to use all necessary tools to enforce the ban, including the destruction of illegally held deactivated arms.

Stricter conditions for the online acquisition of firearms are also proposed, prohibiting the sale and acquisition of firearms via the internet by private persons and limiting this type of sale to dealers and brokers.<sup>10</sup> Other changes include tighter rules on marking of firearms to avoid markings from being easily erased, with the aim of improving the

traceability of weapons (for instance, by affixing markings on the receiver) and clarifying which components the marking should be affixed to. Member States would also have to keep data for an indefinite period, until the destruction of the firearm and not only for 20 years as is currently the case. Additionally, better exchange of information between Member States (for example, on refusals of authorisation decided by other national authorities) and the interconnection of national registers is envisaged. Obligations for dealers and brokers to connect their registers to national registers are also contained in the proposal. Finally, the obligation for Member States to provide standard medical tests for issuing or renewing firearms authorisations, together with the five-year validity ceiling for authorisations, have been added to the proposal.

### Preparation of the proposal

Due to the urgency following the Paris terrorist attacks and as an exception to the general rule under the [Better Regulation Guidelines](#), the proposal was submitted without an impact assessment. The Commission evaluation [report](#) of the Firearms Directive was published together with the proposal in November 2015. Prior to this, the Commission had assigned, to be ready in 2014 and to feed into the decision-making process, an external [evaluation of the Firearms Directive](#), a [study](#) on the options for combatting illicit firearms trafficking in the EU, and a [study](#) on improving the rules on the deactivation, destruction and marking procedures of firearms in the EU, as well as on alarm weapons and replicas. The Commission had also adopted different Firearms Directive-related reports, namely one [on its implementation](#) in 2000, another [on replica firearms](#) in 2010, and a [third on the classification of firearms](#) in 2012.

### Parliament's starting position

The Parliament recently adopted several resolutions related to firearms. In its [resolution](#) on anti-terrorism measures of 11 February 2015, it stressed the need for further strengthening of cooperation as regards information exchange mechanisms and the traceability and destruction of prohibited weapons. In its [resolution](#) on the European Agenda on Security of 9 July 2015, it recalled the urgent need to better assess the threat against EU security and to focus on immediate priority areas for the fight against terrorism: reinforcing EU border security, enhancing internet referral capabilities, and fighting against illicit trafficking in firearms, as well as stepping up information-sharing and operational cooperation between national law enforcement and intelligence services. Parliament also adopted a [resolution](#) on arms export on 17 December 2015.

### Stakeholders' views

Many stakeholders and some [Members](#) of the European Parliament reacted negatively to the proposed ban on some semi-automatic firearms, which they viewed as an unnecessary and burdensome limitation on hunters and sports shooters, and criticised the lack of data on the legal or practical implications of this ban in the absence of an impact assessment. The [Countryside Alliance](#) believes that instead of amending the Firearms Directive, the way forward is a separate directive dealing with terrorism and military arms. It is also concerned about the introduction of the mandatory five-year ceilings for firearms certificates and the introduction of standard medical tests. The [European Association of the Civil Commerce of Weapons](#) stresses that most companies dealing with sports and hunting firearms are small and medium-sized enterprises and that the new restrictions would have a negative impact on them. The [European Shooting Confederation](#) notes that the proposal for banning all military look-alike weapons and other self-loading weapons will bring many of their shooting disciplines to

a complete stop. It adds that the 'fixed' firearm permission (linking a firearms licence to specific disciplines) may involve more bureaucratic work and would not guarantee firearm safety, while categorised restrictions based on the capacity of firearms' magazines are also not a solution for improving firearm safety. The [European Federation for Hunting and Conservation](#) supports several elements of the Commission proposal (for example, improvement of the traceability of firearms, deactivation standards and better exchange of information between Member States), but objects to prohibiting the private sale of legally acquired firearms online.

Pointing out their mission to protect cultural heritage which may include weapons, museums and collectors criticise the proposal for not exempting them from the obligation to deactivate their collection items. The [International Committee of Museums and Collections of Arms and Military History](#) believes that the proposal as drafted would be detrimental to universal patrimony, since deactivation of historical weapons in museum collections has long been held as an irresponsible practice because it constitutes the partial destruction of an object. It notes that to date there has never been a reported case of a stolen museum weapon used in a crime or a terrorist attack. The [Foundation for European Societies of Arms Collectors](#) states that it cannot accept the Commission's bid to punish law-abiding owners of legal firearms and potentially destroy artefacts in private collections and museums, as the new Article 6 proposes. The Foundation also proposes a definition of an arms collector and for recognised collectors and museums to remain exempt from the provisions of the Directive.<sup>11</sup>

### Advisory committees

On 27 April 2016, the European Economic and Social Committee adopted its [opinion](#) on the proposal, supporting the introduction of mandatory medical tests for issuing or renewing licences to use and carry a weapon, and also warning about the threat of 3D printing of weapons.<sup>12</sup> The Committee of the Regions was not consulted.

### Council and European Council

In the aftermath of the *Charlie Hebdo* attack of January 2015, EU Interior and/or Justice Ministers adopted the [Paris Declaration](#), committing to improve intelligence-sharing with the aim to reduce the supply of illegal firearms throughout Europe. At the Justice and Home Affairs Council meeting on 12 and 13 March 2015, Ministers [invited](#) the Commission to propose ways to combat the illicit trafficking of firearms and, together with Europol, enhance information exchange and operational cooperation. The Council further [called](#) for the revision of the Firearms Directive in its conclusions of 15 June 2015 and in its conclusions of 8 October 2015. Similarly, during the informal [European Council meeting](#) of 12 February 2015, the Heads of State or Government requested that competent authorities increase the level of cooperation in the fight against illicit trafficking of firearms, also through the swift review of relevant legislation.

As a follow-up to the Commission proposal more particularly, the Justice and Home Affairs Council held a [debate](#) on the file on 10 March 2016. The Council Presidency [stated](#) that both the scope of the amended Firearms Directive and its key concepts require further fine-tuning and that the aim of the Council is to reach a general approach on the proposed amendments of the Firearms Directive by June 2016.<sup>13</sup>

### National parliaments

The subsidiarity deadline was 2 February 2016. Only the Swedish Parliament has transmitted a [reasoned opinion](#) on the proposal to the Commission, the Council and the

European Parliament. It considered that there were shortcomings in the Commission's assessment regarding the proposal's compliance with the principle of subsidiarity. It also questioned the effectiveness of some of the proposed measures. In its opinion it was, for example, unclear to what extent the introduction of time-limited licences and compulsory medical tests required for the issuance and renewal of authorisations, can contribute to increasing the security of EU citizens.

Other national parliaments also reacted in the framework of political dialogue. On 27 January 2016, the Foreign and European Union Affairs Committee of the Polish Senate [adopted an opinion](#).<sup>14</sup> On 20 April 2016, the Senate of the Parliament of the Czech Republic finalised the scrutiny procedure by [adopting a final statement](#) on the matter.<sup>15</sup> The [Finish Parliament](#), [Italian Senate](#), [Portuguese Parliament](#) and [Romanian Chamber of Deputies](#) also contributed opinions.

### Parliamentary analysis

In January 2016, the European Parliamentary Research Service (EPRS) published its [Implementation Appraisal](#) of the Firearms Directive. It noted that no impact assessment accompanied the Commission proposal and that some of the proposed modifications go beyond the recommendations made in the [external evaluation](#) of the Directive (for instance, inclusion of alarm and signal weapons in the definition of firearms). It stated that some of the current concerns surrounding the proposal could have been prevented through clearer terminology, especially concerning the proposed ban on some semi-automatic weapons.

### Legislative process

Parliament's Internal Market and Consumer Protection (IMCO) Committee (rapporteur: Vicky Ford, ECR, United Kingdom) is responsible for the file, while Parliament's Civil Liberties, Justice and Home Affairs (LIBE) Committee has also prepared its [opinion](#).

A [public hearing](#) on the revision of the Firearms Directive was held on 15 March 2016 and the [draft report](#) was published on 22 March 2016. The draft report states that any changes to the Directive must balance the right to ownership of certain types of firearms with controls appropriate to the risk they present. It also recommends that rules on storage of firearms should be formalised in the Directive, taking into account the nature and category of the firearms concerned. It proposes to reinstate the existing provision in Article 6 which Member States may use to authorise certain persons to hold category A firearms in specific circumstances. Additionally, it stresses that a number of technical issues have arisen with regard to the new [Implementing Regulation](#) on deactivation and suggests possible solutions. It also proposes that firearms authorisations for historical purposes are more strictly defined.

### References

[Control of the acquisition and possession of weapons](#), European Parliament, Legislative Observatory (OEL).

### Further reading

[Illicit small arms and light weapons: International and EU action](#), EPRS, 2015.

[Study to support an impact assessment on a possible initiative related to improving rules on deactivation, destruction and marking procedures of firearms in the EU, as well as on alarm weapons and replicas](#), SIPRI, June 2014.

[European Union – Gun Facts, Figures and the Law](#), Gun Policy - University of Sydney.

## Endnotes

- <sup>1</sup> In its [press release](#) presenting these measures in November 2015, the Commission also announced an [EU action plan against illicit trafficking in and use of firearms and explosives](#), which was published in December 2015.
- <sup>2</sup> The Implementing Regulation (EU) 2015/2403 is applicable from 8 April 2016.
- <sup>3</sup> According to [EPRS](#), several sources point to possible use of deactivated firearms in the 2015 terrorist attacks. A Commission [fact sheet](#) (2015, p. 1.) for instance states that 'recent terrorist attacks or attempted attacks included the use of firearms that had been incorrectly deactivated or firearms assembled with badly deactivated components.' A [Reuters](#) article states that a Kalashnikov (AK-47 firearm) that killed *Charlie Hebdo* cartoonists in Paris in January 2015 was bought legally as a decommissioned collector's item in Slovakia. A recent [Black Sea article](#), published under the umbrella of journalist research network, European Investigative Collaborations, describes in detail the path of the weapons used in the Paris attacks, which lead to a Slovak online gun shop.
- <sup>4</sup> See the [consolidated text](#) of the Directive (91/477/EEC), as amended by Directive 2008/51/EC.
- <sup>5</sup> Article 8 of the Firearms Directive states that the Member States need to provide for the compulsory declaration of all firearms classified in category C.
- <sup>6</sup> Category B7 refers to semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms.
- <sup>7</sup> According to the [Commission](#), collectors have been identified as a possible source of trafficking in firearms.
- <sup>8</sup> In line with the proposal, not all semi-automatic firearms would be banned. The Commission [explained](#) that some semi-automatic firearms, especially those used by hunters and sports shooters – including semi-automatic long-firearms whose magazine and chamber can hold more than three rounds – would not be prohibited for civilian use.
- <sup>9</sup> The Commission supports this move with the [argument](#) that 'it cannot be excluded that deactivated arms will be reactivated despite stringent rules.'
- <sup>10</sup> In the [proposal](#), 'dealers' are defined – broadly speaking – as any natural or legal person whose trade or business consists wholly or partly in the manufacture, trade, exchange, hiring out, repair or conversion of firearms/their parts or ammunition. 'Broker' is, to summarise, defined as any natural or legal person other than dealer whose trade consists wholly or partially in buying, selling or arranging the transfer of fully assembled firearms, their parts and ammunition within a Member State, from one Member State to another, or to a third country.
- <sup>11</sup> For other stakeholder positions see also: [Firearms United](#), [Nordic Hunters' Alliance](#) and [Belgian Weapon Forum](#).
- <sup>12</sup> The Committee also suggested the inclusion of requirements on the frequency of training in the handling of firearms, safe storage and transportation of weapons and their components.
- <sup>13</sup> Finland and the Czech Republic have [reportedly](#) expressed their reservations about the proposed amendments to the current Firearms Directive. Sweden is also [reportedly](#) having difficulty accepting the new proposal.
- <sup>14</sup> There it states that it does not support the proposal and that the Commission did not maintain reasonable proportionality between the restrictiveness of the measures proposed and the threats identified. It also considered that the Commission's proposed measures were not based on a thorough analysis.
- <sup>15</sup> Among other things, it pointed out that the Commission does not address the legal or practical implications of the prohibition of semi-automatic firearms for individuals that the Member States will have to deal with. It stressed that prohibiting the possession of certain type of firearms creates an obligation for the Member States to buy up these weapons from their owners (that is, to expropriate them) in return for appropriate compensation, which can pose a considerable burden on the national budgets.

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