

Control of the acquisition and possession of weapons

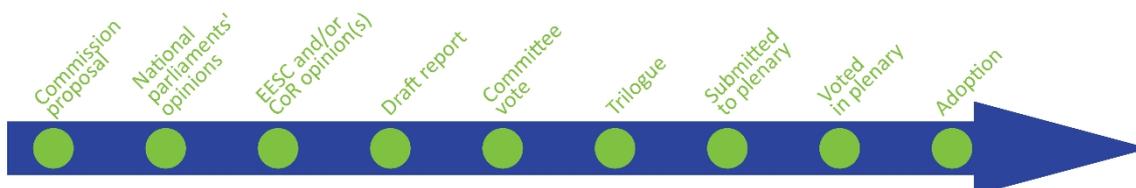
SUMMARY

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 aimed 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. Parliament and Council reached agreement on the proposal in December, and formally adopted it in March and April respectively. The new directive reduces the number of weapons categories and changes the classification of certain types of weapons, while strictly defining exceptions for civilian use of the most dangerous weapons. It entered into force on 13 June 2017, with the deadline for transposition of most provisions set at 14 September 2018.

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

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| <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>Procedure completed</i> | Directive (EU) 2017/853 OJ L 137, 24.5.2017, pp 22-39 | Ordinary legislative procedure |



This updates a briefing of January 2017, drafted by Jana Valant: [PE 595.875](#).

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Introduction

On 18 November 2015, the European Commission presented a [package](#) of measures¹ 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](#)² 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](#).³

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](#),⁴ 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.

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*;⁵

- **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 B7⁶ of firearms under category A).

Collectors, as defined by national law, are presently excluded from the scope of the Firearms Directive.⁷ 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 firearms⁸ 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.⁹ 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.¹⁰ 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. 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 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.¹¹

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.¹² 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.

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, and also questioned the effectiveness of some of the proposed measures.

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](#). 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. 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) was responsible for the file, while Parliament's Civil Liberties, Justice and Home Affairs (LIBE) Committee also prepared an [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 2016.¹³

The initial discussions at the Council working party level started in December 2015. On 10 June 2016, the Council [agreed](#) its negotiating position on the proposal in its [general approach](#), which put forward the following modifications:¹⁴

- Member States should have the possibility to authorise the acquisition and possession of prohibited firearms when necessary for educational, cultural, including film and theatre, research or historical purposes;
- Member States should be allowed to authorise individuals to acquire and possess otherwise prohibited firearms and their essential components for national defence – in the context of voluntary military training provided under Member State law;
- Objects that have the physical appearance of a firearm (replicas), but cannot be converted to fire a shot or expel a bullet or projectile by the action of a combustible propellant, should not be covered by the directive;
- Firearms and ammunition should be stored securely when not immediately supervised. If stored other than in a safe, firearms and ammunition should be stored separately. The criteria for storage should be defined by national rules.

On 13 July 2016, Parliament's IMCO Committee adopted its [report](#) by 27 votes to 10, with one abstention. The report stated that the definition of the term 'firearm' needed to be

clarified, and the control of essential components enhanced by including in that definition any portable object which shares an essential component with a firearm. It also noted that replicas and signal weapons should not be treated as firearms unless they can be converted into firearms or share an essential component. It further clarified specifications for categories A6 and A7, with additional technical characteristics, including on the basis of the number of rounds fired without reloading. It also stated that it should be possible for Member States to choose to grant authorisations to recognised museums and collectors for the acquisition and possession of prohibited firearms and ammunition when necessary for historical, cultural, scientific, technical, educational, aesthetic or heritage purposes – under strict conditions. It added a provision on storage of firearms and ammunition, clarifying that the criteria for their storage and safe transport should be defined by national law. It further included more detailed conditions regarding online sales of firearms, essential components and ammunition.

The IMCO Committee voted on 5 September on a mandate for its delegation to negotiate with the EU Council of Ministers, opening the way to launching trilogue discussions under the Slovak Presidency. Trilogue meetings started in September and an agreement was reached in December 2016. This text was then adopted by the Parliament in plenary on 14 March 2017 and by the Council on 25 April. The final act was signed on 17 May 2017.

[Directive \(EU\) 2017/853](#), published in the Official Journal on 24 May 2017, reduces the number of weapons categories from four to three, removing category D, which currently requires neither an authorisation for weapons nor their declaration to the authorities. It also changes the classification of certain types of weapons. Weapons converted to firing blanks will be classified in their original category. Newly deactivated firearms of all categories will be listed in category C, requiring declaration to the authorities, but not an authorisation. Automatic firearms converted into semi-automatic firearms become category A6 and are prohibited for civilian use. Short semi-automatic firearms fitted with a loading device exceeding 20 rounds, long semi-automatic firearms fitted with a loading device exceeding 10 rounds and long firearms that can be concealed by means of a folding or telescopic stock become category A7 and are also prohibited for civilians.

Possible grounds for exemptions for allowing civilian use of weapons in category A are defined in a restrictive list which includes national defence, educational, cultural and historical purposes. According to the negotiated agreement, acquiring a firearm of category A6 or A7 for a sports-shooting discipline is possible only under strict conditions. The revised directive requires all weapons dealers and brokers to report without delay any transactions to the national weapons authorities, which should keep a database with data stored for 30 years after the weapon has been destroyed. Online purchases of weapons are to be allowed only if the identity and authorisation of the person acquiring is checked by a dealer/broker or a public authority.

The directive entered into force on 13 June 2017. The deadline for transposition of most provisions is 14 September 2018, while the provisions on the activities of dealers and brokers and on data-filing systems have to be transposed by 14 December 2019.

References

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

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

- ¹ 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.
- ² The Implementing Regulation (EU) 2015/2403 is applicable from 8 April 2016.
- ³ 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.
- ⁴ See the [consolidated text](#) of the Directive (91/477/EEC), as amended by Directive 2008/51/EC.
- ⁵ 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.
- ⁶ Category B7 refers to semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms.
- ⁷ According to the [Commission](#), collectors have been identified as a possible source of trafficking in firearms.
- ⁸ 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.
- ⁹ The Commission supports this move with the [argument](#) that 'it cannot be excluded that deactivated arms will be reactivated despite stringent rules.'
- ¹⁰ 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.
- ¹¹ For other stakeholder positions see also: [Firearms United](#), [Nordic Hunters' Alliance](#) and [Belgian Weapon Forum](#).
- ¹² 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.
- ¹³ The draft report recommended that rules on storage of firearms should be formalised in the Directive. It proposed 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. It also stressed that a number of technical issues have arisen with regard to the new [Implementing Regulation](#) on deactivation and suggested possible solutions.
- ¹⁴ Here, the Council also noted that semi-automatic firearms with a fixed loading device allowing to fire a high number of rounds, as well as semi-automatic firearm in combination with a removable loading device with a high number of rounds should be prohibited for civilian use. Such loading devices, such as fixed or detachable magazines, as well as feeding belts, should also be prohibited and when individuals should be found in the possession of such loading devices these should be seized.

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