

Background

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Revision of the EU firearms directive: an overview

The provisional deal on the revision of the EU firearms directive, which sets out the conditions under which private persons may lawfully acquire and possess guns or transfer them to another EU country, was backed by the Internal Market Committee on 26 January 2017. The vote by the full Parliament is expected to take place in March.

In this background note you will find more information on what was agreed during the “trilogues” (three-way talks between Parliament, Council and Commission negotiators).

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Firearm types

Firearm types are defined as Category A, B or C. Category A firearms are prohibited except for certain types of individuals, Category B firearms need an “authorisation”, and owners of Category C firearms need to declare their ownership but do not need authorisation.

Blank firing weapons

The previous treatment of so-called “salute and acoustic firearms” raised security concerns. These are working firearms converted to fire blanks. Under the existing directive in certain countries these could be sold without authorisations and some were easily re-converted to live firearms. “This type of firearm was used in Paris terrorist attacks. A cache of over 30 were discovered in the UK in 2015”, said Vicky Ford (ECR, UK), who is steering this legislation through Parliament.

The rules covering these firearms will now be tightened. Going forward any firearm which has been converted to fire blanks must remain licensed under the same rules as its original live-firing version.

Deactivated firearms

In order to strengthen deactivation regimes, the European Commission introduced a new deactivation regulation which came into force in April 2016. This sets a single standard for deactivation of firearms. However, technical implementation issues have arisen and some countries were concerned that the new standard would be less secure than their previous national regimes. Following pressure from Parliament, the European Commission has now reconvened a working group of experts from the EU member states to review the regulation. The Commission has pledged that a revision will be completed by early 2017.

“The introduction of the deactivation regulation caused problems for legitimate holders of deactivated firearms such as historical re-enactors and those involved in film making etc, as it prohibits them from selling or transferring across borders any items deactivated prior to April 2016 unless the items are re-deactivated to the new standard, which is not technically possible in many cases. Following pressure from Parliament there will now be a process to assess national standards in use prior to April 2016. If the standards are accepted by the working group and Commission as equivalent, then items deactivated to that previous regime will be able to be bought, sold and transferred without requiring further modification”, explained Vicky Ford (ECR, UK).

The Commission proposed that all deactivated firearms would become subject to the same registration and authorisation procedures as firearms. This was rejected by the co-legislators. Instead the negotiators agreed that newly deactivated firearms should be categorised in Category C and need to be declared to national authorities but will not require an authorisation or licence. This will not apply to existing deactivated firearms.

Categories: firearms prohibited for civilian use and firearms under authorisation

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Category A

The Commission’s original proposal added:

Category A6 *“Automatic firearms which have been converted into semi-automatic firearms“* and Category A7 *“Semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms.”*

These were both rejected by Parliament’s negotiators, as “there is experience that categorising items based on the subjectivity of resemblance creates legal uncertainty”, said Vicky Ford (ECR, UK).

Category A6

Parliament’s initial committee approach was that “Automatic firearms which have been converted into semi-automatic firearms” should remain in Category B if the conversion was irreversible and be placed in Category A only if the conversion was reversible. “Parliament’s team proposed that the Commission should develop new technical standards to define which conversions were irreversible. However, the Commission was not prepared to accept responsibility for preparing technical specifications on these conversions”, said Ms Ford.

”To reach agreement, negotiators representing the majority of Parliament conceded that automatic firearms converted into semi-automatic firearms should be Category A, but added new authorisation procedures so that, at the discretion of the member state, reservists, target shooters and others with special licences would be permitted to hold these. In addition, a ‘grandfathering’ clause is added so that existing owners can continue to own, transfer, inherit or sell these firearms to others who have appropriate authorisation. Again this is at the discretion of the member state”, explained the rapporteur.

Category A7

Instead of using “resemblance” criteria both Parliament and Council negotiators proposed to add to Category A semi-automatic centre-fire firearms when a high-capacity loading device is fitted. Firearms have been categorised according to loading capacity already in the current directive, and the new rules extend this approach. This only affects firearms which use centre-fire and not rimfire percussion ammunition.

The categorisation applies when the firearm and magazine is in combination together, and does not depend merely on whether the firearm is capable of having a higher capacity magazine inserted. This has been explained in the text:

“The mere possibility of fitting a loading device with the capacity over 10 rounds for long firearms and 20 rounds for short firearms does not determine the categorization of the firearm.”

“Therefore a semi-automatic firearm remains Category B unless the high capacity magazine is fitted”, explained Ms Ford.

Following lengthy negotiations, it was agreed that for long firearms exceeding 60 cm, a magazine with a capacity greater than 10 rounds would be restricted, while for a short firearm the limit would be set at 20 rounds. This was a major negotiating point for the Council.

Member states will be able to give authorisations for reservists, target shooters and others with special licences for these firearms. As for those firearms that now fall under Category A6, there is a “grandfathering” clause.

Selective fire

“The European Commission proposed to reference specific types of firearms and derivations thereof. However, Parliament rejected this approach as it was considered impracticable for the same reasons as resemblance-based criteria. A clarification has been added in a recital that selective fire firearms are treated as Category A, which accords with current practice. There are no other references to specific types of firearms anywhere else in the text”, explained Vicky Ford (ECR, UK).

Recital: “Firearms designed for military use, which are equipped to operate on the basis of selective fire, such as AK47, M16, where they may be manually adjusted between automatic and semi-automatic firing modes should fall within category A, therefore should not be available for civilians and if converted into semi-automatic firearms should fall within category A6.”

Status of magazines / loading devices

“Loading devices themselves, including magazines, are not restricted *per se*. Semi-automatic centre fire firearms which allow the firing of more than a certain number of rounds without reloading will now become Category A firearms only if a loading device with a capacity exceeding that capacity is inserted into it or is part of the firearm”, stressed Vicky Ford (ECR, UK).

Member states are able to give authorisation for such Category A firearms for sport shooters, existing holders, collectors, reservists and certain other specialist users.

People with a Category B firearm who are found in possession of a high capacity magazine will risk having their authorisation to hold firearms removed unless they have a Category A authorisation. There is no restriction on re-applying for an authorisation in the future.

New purchases of high capacity magazines are restricted to those with a Category A authorisation.

“This was a major issue for the 28 national government ministers in the Council and the European Commission who both proposed an overall ban on all high-capacity magazines. This was rejected by Parliament as impractical to enforce. This intermediate approach was accepted by negotiators representing the majority of the members of the European Parliament in order to achieve agreement”, said Ms Ford.

Special provisions for ownership

Member states will be able to give Category A authorisations to individuals for the protection of the security of critical infrastructure, commercial shipping, high-value convoys and sensitive premises, as well as for national defence, educational, cultural, research and historical purposes

Museums and collectors: member states will be able to give Category A authorisations to recognised museums and in exceptional and duly reasoned cases to collectors, subject to strict security measures. The collection of ammunition is permitted.

Target shooters: member states will be able to give Category A authorisations to target shooters provided the individual is actively practising for or participating in shooting competitions. Vicky Ford (ECR, UK) explained that “the authorisation covers those entering the sport as well as those already competing. The current freedom of choice of equipment used by competitors in their shooting disciplines is not restricted. To facilitate continued participation in international competitions, the rules governing the European Firearms Pass will be updated to cover firearms, including Category A firearms, held by such target shooters”.

Reservists: armed forces, the police and the public authorities are outside the scope of the directive. The provisions for authorisation for national defence also enables member states to issue reservists with firearms.

Switzerland: Language is introduced to cover the Swiss system based on general conscription which enables the transfer of military firearms to persons leaving the army.

Film industry: many film productions in Europe use firearms including deactivated firearms, purpose-built blank firing firearms as well as live firearms, usually firing blanks, all depending on the nature of the production. “The Commission’s initial proposals would have jeopardised this but the Parliament text has re-instated the ability for special authorisations for the film industry under strict controls”, said Ms Ford.

Re-enactors: the European Firearms Pass enables legitimate owners to move firearms across borders. This has been updated to assist historical re-enactors.

Private modifications

Hand-loading and reloading of ammunition will remain permitted. Modifications of firearms for private use are also still permitted by private owners and not restricted only to dealers or brokers.

Medical systems

The existing law states that authorisations are only permitted for those who “are not likely to be a danger to themselves or others”. The Commission suggested that medical tests should be required for each authorisation and these should be reviewed every five years. Parliament’s lead negotiator, Vicky Ford (ECR, UK) believed that “point-in-time medical tests are not necessarily effective”. Instead, it was agreed that each member state must have a monitoring system to assess relevant medical and psychological information which they may operate on a continuous or non-continuous basis.

Authorisation will be withdrawn if any of the conditions on which it was granted are no longer met, or may be renewed or prolonged if the conditions are still fulfilled. Member states may decide whether or not the assessment involves a prior medical or psychological test. This does not change national approaches or introduce new EU-wide requirements for medical testing.

Marking, registers and information sharing

The current directive requires firearms to be marked and registered so that each firearm can be linked to its owner. Law enforcement and Europol noted the risk of sales of parts. Going forward the essential components of a firearm also need to be marked and registered. To avoid risk of confusion, the main identifier will be the mark affixed to the frame or receiver. The new marking requirements will not apply to existing firearms. Firearms of historical importance may not need markings depending on national law.

To improve information sharing, dealers and brokers will need to inform national authorities of transfers through electronic means and member states will share information on firearms held in their country.

All information needed to trace and identify firearms will have to be recorded in “computerised data-filing systems.” These records should be kept for 30 years after the destruction of the firearms and essential components.

A module of the Internal Market Information System (IMI), specifically customised for firearms, may be used to exchange information between member states.

Next steps and transposition period

The provisional deal still needs to be voted by the full Parliament in an upcoming plenary session (probably in March 2017) and formally approved by the EU Council of Ministers.

Member states will have 15 months after the date of entry into force of the directive to transpose the new rules into national law and 30 months to introduce new systems for sharing of information. They may decide to suspend the requirement for declaring deactivated weapons and prior category D firearms for 30 months from the entry into force of the directive.