

Import, export and transit measures for firearms

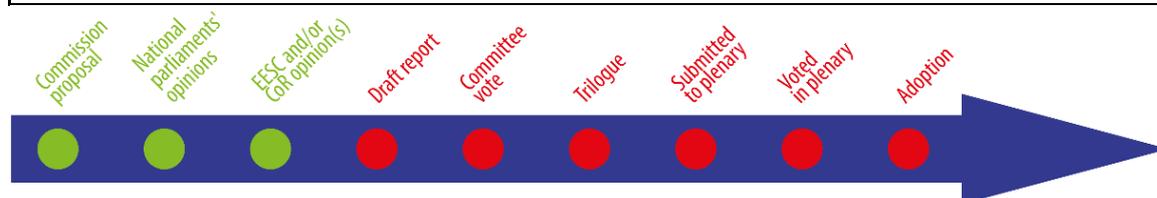
OVERVIEW

According to the European Commission, the manufacturing and trade in firearms, their essential components and ammunition employs around 150 000 people in the EU. Following the terrorist attacks in the EU of the last decade, the EU decided to update its legislation on civilian firearms. In 2020, the Commission adopted the 2020-2025 action plan on firearms trafficking to help curb illegal flows of firearms, and ammunition, while also strengthening the legal market. The publication of Directive (EU) 2021/555 on control of the acquisition and possession of weapons on 6 April 2021 was the first legislative outcome of the plan.

In October 2022, the Commission presented a proposal for a regulation on import, export and transit measures for firearms, their essential components and ammunition, another legislative commitment in its action plan. The proposed regulation would pursue three main objectives: a) neutralising the risks of trafficking at import and export; b) ensuring traceability in the firearms trade, based on systematic written information; and c) promoting efficient implementation of controls. Compared with Regulation (EU) 258/2012, currently in force and which it supersedes, the proposal extends the material scope to exports, provides for consistent interpretation of rules across Member States, and allows for the flow of data at EU level.

Proposal for a regulation of the European Parliament and of the Council on import, export and transit measures for firearms, their essential components and ammunition, implementing Article 10 of the United Nations Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol) (recast)

<i>Committee responsible:</i>	International Trade (INTA)	COM(2022) 0480 27.10.2022
<i>Rapporteur:</i>	Bernd Lange (S&D, Germany)	2022/0288(COD)
<i>Shadow rapporteurs:</i>	Anna-Michelle Asimakopoulou (EPP, Greece) Urmas Paet (Renew, Estonia) <i>To be appointed (Greens/EFA)</i> Danilo Oscar Lancini (ID, Italy), <i>To be appointed (ECR)</i> Emmanuel Maurel (The Left, France)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Next steps expected:</i>	Publication of the draft report	



Introduction

Article 1 of Directive (EU) 2021/555 on control of the acquisition and possession of weapons defines firearms as 'any portable barrelled weapon that expels, is designed to expel or may be converted to expel, a shot, bullet or projectile by the action of a combustible propellant'. The 2020-2025 EU [action plan](#) on firearms trafficking includes estimates that provide an account of the pervasiveness of illicit firearms circulation in the EU: the plan mentions a 2018 [publication](#) by the Small Arms Survey, which finds that, in the EU, 56% of the estimated number of firearms are expected to be held illicitly (by natural persons). Furthermore, in 12 Member States, the number of illicit firearms is estimated to be higher than the number of legally owned firearms.¹ According to a study by the Flemish Peace Institute, between 2009 and 2018 23 mass shootings (corresponding to an event with not less than four deaths) claimed 341 lives in Europe.

The proposal builds on Regulation (EU) 258/2012, which it complements and codifies. To address technological evolution (for instance, 3D printing) and geopolitical change (for instance, the Libyan crisis and the situation in the Western Balkans), the proposal aims to tighten traceability of the import and export of firearms, their essential components and ammunition, while providing flexibility to a targeted number of producers and consumers, such as hunters. It will also provide solutions to the material limitation of the current EU firearms regulation, which cannot ensure the provision of a comprehensive set of statistics for firearms flows across the EU.

Context

Under the SAFTE (studying the acquisition of illicit firearms by terrorists in Europe) international research project funded by the European Commission, in 2018 the Flemish Peace Institute and other partners published a [report](#), and a book, '[Triggering terror: illicit gun markets and firearms acquisition of terrorist networks in Europe](#)', with a focus on seven Member States. The report concludes that 'the easy and cheap access to certain firearms in some countries strongly contributes to illicit firearms trafficking across the EU'. It also considers that the usually closed dimension of markets for illicit firearms in Europe is being challenged by the growing availability of certain types of firearms. According to the study, the underlying factors are the emergence of the internet, the cross-border smuggling of military-grade assault rifles into the EU, the conversion of blank-firing guns and the reactivation of deactivated firearms and acoustic expansion weapons (devices producing loud sounds at long distance). The increased availability of firearms is also believed to be fuelling arms races between criminal groups across the EU.

United Nations Member States concluded an international agreement to address the illicit manufacturing of and trafficking in firearms. The [protocol](#) against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition was adopted on 31 May 2001 by resolution 55/255 of the General Assembly of the United Nations.² As of 24 January 2023, almost all EU Member States had acceded to the [protocol](#). The EU also approved the protocol through [Council Decision 2014/164](#) of 11 February 2014.³

Article 10⁴ of the UN protocol, which is mentioned in the title of the proposed regulation, refers to general requirements for export, import and transit licensing or authorisation systems. It creates a set of obligations on State Parties to establish an effective system of export and licensing authorisation, based on minimal formalities on the import and export of firearms, their essential components and ammunition. Such obligations aim to ensure the legality and traceability of this trade. Before issuing an export authorisation, the relevant national authorities must check the existence of an import licence, the authorisation, and the agreement by any transit State. The State Parties must also ensure that their export and import licences and authorisations include a set of mandatory information (such as an import licence or authorisation and accompanying documentation).

In 2021, Europol published the EU Serious and Organised Crime Threat Assessment (SOCTA), '[A corrupting influence: the infiltration and undermining of Europe's economy and society by organised crime](#)'. Based on comprehensive analysis of law enforcement information on criminal activities and networks affecting the EU, it considers illegal firearms trafficking to be a 'key enabler' for other criminal purposes. While noting that the diversion of legal supply is a 'significant source' of illegal firearms in the EU, it also indicates the increased relevance of alarm and signal weapons in seizures, as well as the impact of the conjunction of technological development with the existence of clandestine workshops, where firearms can be assembled from parts manufactured using 3D technology. Such technology or goods can be acquired in countries where their sale is allowed and illegally transported to the EU, or illegally produced and used with genuine weapon frames.

The EU's common commercial policy ([Article 207](#) TFEU), and the internal market ([Article 26](#) and [Article 114](#) TFEU) constitute the main legal base of EU legislation regulating the civilian (all the users that do not belong to armed forces, the police or public authorities) trade of firearms, essential components and ammunition.

Two main EU legislative acts apply to the civilian trade of firearms, as well as the consolidated Council [Common Position 2008/944/CFSP](#) on defining common rules governing control of exports of military technology and equipment.

- [Directive \(EU\) 2021/555](#) on control of the acquisition and possession of weapons: this directive updates and codifies the consolidated version of Council Directive 91/477/EEC, which provides the EU legal framework applying to firearms acquisition and possession. Interestingly, beyond cases of [infringement](#), the previous directive updating Directive 91/477/EEC, [Directive \(EU\) 2017/853](#), was brought to the Court of Justice of the European Union (CJEU) by the Czech Republic, whose allegations included consideration of a breach of the principle of conferral of powers: it maintained that Article 114 TFEU would not be an appropriate legal basis for the obligations in the text. In its [judgment](#) of 3 December 2019, the CJEU dismissed the action.
- [Regulation \(EU\) 258/2012](#) implementing Article 10 of the UN protocol against the illicit manufacturing of and trafficking in firearms: in 2017, the [evaluation](#) of the regulation's implementation identified several shortcomings. On the one hand, the interplay with the directives mentioned above proved complex, and might have contributed to a lack of homogeneous implementation. On the other hand, the regulation was ineffective in ensuring the full traceability of weapons, and in ensuring proper exchanges of information between Member States. In 2017, the Commission published a [report](#) to the Parliament and to the Council on the implementation of Regulation (EU) 258/2012, in which it found several cases of difficulties, ranging from divergences in marking weapons to data practices impeding traceability. The Commission noted that the scope and extent of such shortcomings might call for a possible revision of the regulation.

Preparation of the proposal

European Parliament starting position

With its [resolution](#) of 17 December 2020 on the EU security union strategy, the Parliament welcomed the adoption of the 2020-2025 EU action plan on firearms trafficking, as well as the Commission's intention to introduce systematic and harmonised data collection on firearms seizures. It also called on the Member States and Commission to look into further actions to prevent the trafficking of firearms on the darknet.

In its [resolution](#) of 15 December 2021 on cooperation on the fight against organised crime in the Western Balkans, the Parliament noted that, according to the 2020-2025 EU action plan on firearms

trafficking, illicit firearms possession and trafficking remained a serious issue, as many weapons that are found and used in organised crime throughout the EU come from the region. It thus called on the six Western Balkan states to invest in programmes to support disarmament.

European Council and Council of the EU starting position

In its [conclusions](#) of December 2015 in the wake of terrorist attacks in France, the European Council considered that 'the recent terrorist attacks demonstrate in particular the urgency of enhancing relevant information sharing, notably as regards ensuring the interoperability of the relevant databases with regard to security checks'.

In its [conclusions](#) of 19 November 2018 on the adoption of an EU strategy against illicit firearms, small arms and light weapons and their ammunition, the Council committed to preventing and curbing the illicit trade in small arms and light weapons and their ammunition and to promoting accountability and responsibility with regard to their legal trade.

In its [conclusions](#) of 12 May 2021 setting the EU's priorities for the fight against serious and organised crime, the Council includes firearms trafficking as one of the 10 priorities between 2022 and 2025. This priority's objective is to 'target criminal networks and individual criminals involved in the illicit trafficking, distribution and use of firearms'.

Public consultation 2021

The Commission organised a public [consultation](#) between 5 July and 11 October 2021 to receive views from a wide range of institutional, corporate and individual actors, as part of the evidence-based review of Regulation (EU) 258/2012. Only closed questions were offered to the respondents. Of the 237 written responses, 185 were sent by natural persons acting in their own capacity; only seven national authorities and seven companies took part in the consultation. The Commission did not mention any specific qualitative outcome from this consultation.

The impact assessment

The Commission's 2020-2025 [action plan](#) on firearms trafficking included a commitment to conduct an impact assessment of EU legislation on controls for imports and exports of civilian firearms, in particular to improve traceability.

The assessment allowed the Commission to conduct further targeted consultations, to mitigate the low participation in the 2021 public consultation mentioned above. In particular, 32 answers were submitted from 20 EU Member States, as part of a confidential survey. The answers confirmed the issue of non-harmonised import and export procedures mentioned in the 2021 consultation. Eighteen respondents stated that their Member State uses a paper-based import and export process. The respondents also indicated average processing times of between 5 days and 1.5 months. In addition, 12% of the respondents stated that there are no specific checks on the convertibility of alarm and signal weapons when they are imported.

The [impact assessment](#), published together with the proposal, identified three main issues:

- **The lack of data:** the assessment concluded that there is no comprehensive and centralised data available on the international movements of firearms, and firearms seizures, in all Member States.
- **Firearms trafficking into and from the EU:** on imports, the assessment notes that the main risks are linked to the circumvention of unclear rules that enable the import of 'semi-finished' firearms and components (and of alarm and signal weapons that can be converted into lethal firearms). On exports, the main risk lies in the diversion of civilian firearms shipped to a non-EU country and being re-exported to countries subject to embargoes or sold to criminals and armed forces.

- **Administrative burdens related to the legal trade in civilian firearms:** the assessment mentions that businesses are subject to different administrative procedures, entailing different requirements and costs, depending on the Member State. An explanation for this situation could be that Regulation (EU) 258/2012 mainly focuses on export controls, therefore leaving import-related schemes to be regulated by Member States.

The assessment concludes that only a legislative initiative would ensure the full alignment of the scope of the regulation with that of the Firearms Directive. With such a legislative initiative, the amended regulation would govern all civilian transactions of firearms, including civilian trade in automatic firearms, semi-automatic firearms with high-capacity magazines or semi-automatic long firearms. In addition, a legislative initiative would be able to include an obligation for the Member States to provide annual data.

In 2022, the EPRS published an [implementation appraisal](#) of Regulation (EU) 258/2012, which confirmed the legal loopholes, as well as the inconsistencies among Member States in implementing the regulation.

The changes the proposal would bring

The proposed [regulation](#) is based on [Article 207](#) TFEU (common commercial policy) and [Article 33](#) TFEU (customs cooperation). It aims to upgrade the current rules on import, export and transit of firearms, their parts, components and ammunition, which are defined currently in [Regulation \(EU\) 258/2012](#) of 14 March 2012, implementing Article 10 of the United Nations protocol against the illicit manufacturing of and trafficking in firearms (and their parts, components and ammunition).

While the new provisions ensure consistency with the scope of Directive (EU) 2021/555 mentioned above, they also pursue three sets of objectives: a) neutralising the risks of trafficking at import and export; b) ensuring traceability of the firearms trade, based on systematic written information; and c) promoting efficient implementation of the controls.

The **comprehensive regulation at import and export** is ensured mainly by extending the scope of the regulation to two series of goods. As for the legal scope, Article 1 includes import authorisations, instead of the import measures in Regulation (EU) 258/2012. On the material scope, Article 1 expressly adds 'alarm and signal weapons' to the subject matter of the regulation. Article 2 on definitions further specifies the essential components of a firearm, to include 'the frame, the receiver, the slide, the cylinder, the bolt or the breech block'. It also introduces the novelties of 'semi-finished firearms' and 'semi-finished components' that 'can only be used, other than in exceptional cases, for completion' (respectively of a firearm, and an essential component. With this new set of definitions, the proposal acknowledges the fact that the lifecycle of a weapon begins with its manufacture, which will contribute to comprehensive monitoring of the outputs produced along the manufacturing chain.

Based on this enlarged scope, further safeguards against trafficking are included both in Chapter II, for entry and import requirements (Article 4 to Article 11), and Chapter IV, for export requirements (Article 14 to Article 24). On imports, Article 4 provides for the exclusion of the import of firearms, their essential components and ammunition from six simplified EU customs schemes. On the contrary, the new Article 9 provides for a mandatory import authorisation for all such goods, whereas Regulation (EU) 258/2012 does not include such a provision. On semi-finished arms and weapons, Article 9.3 restricts the right to import only to arms dealers and brokers. Articles 5 to 10 specify the obligations of importers, such as the mandatory marking of such goods.

The proposal also aims to **ensure traceability of all firearms, their essential components and ammunition imported into, in transit in, or exported from the EU**. Traceability requires the legal marking of firearms as well as the systematic registration of their movements (import, transit, export).

Article 16 on traceability extends the general obligations regarding the marking of firearms, and ammunition, to the essential components, as mentioned above, and their movements. Article 6 on marking at import specifies that the marking shall comply with Article 4 of [Directive \(EU\) 2021/555](#) of 24 March 2021 on control of the acquisition and possession of weapons, and provides a new obligation extending the rule of mandatory marking to imported ammunition.⁵ Article 7 and Article 8, which is new, respectively provide specific obligations from the same directive for deactivated firearms and alarm and signal weapons. Article 5 and Article 15 ensure that no import decision or export authorisation can be taken without complying with the rules on marking. In particular, the new Article 5 spells out the obligations of economic operators established in the EU to import a firearm, their essential components, ammunition and alarm and signal weapons. Such obligations include compliance with Directive (EU) 2021/555, specific information and data keeping, and the principle of cooperation with national authorities

Traceability on the international movements of firearms, their essential components and ammunition is improved through two main sets of rules.

On the one hand, and differently from Regulation (EU) 258/2012, all import (Article 9) or export (Article 14) authorisation will be implemented electronically, including written consent from a transit State when relevant (Articles 12 and 13 and Recital 14). On export authorisation, the new Article 14(2) specifies that, for specific firearms categories (A and B), authorisation shall be given only if the request includes an end-user certificate delivered by the authorities in charge in the final destination country. However, Article 10 and Article 17 keep, respectively, a set of exemptions for temporary admission and temporary export for the purposes (including hunting, sport, repair and exhibition) mentioned in Article 10.6⁶ of the UN protocol.

On the other hand, the proposal establishes a framework for an electronic system to ensure the systematic registration of import and export requests and authorisations. Article 29 introduces a secure and encrypted system to support direct cooperation between Member States regarding refusals to grant import or export authorisations. The new Article 27 on statistics obliges Member States to submit each year to the Commission quantitative (number of authorisations and refusals) and qualitative (quantities and values of actual imports and exports) data.

The proposal also aims to **optimise the implementation of the regulation and cooperation among EU and national authorities**, to balance the need for capillary control of international movements for civilian purposes with the legitimate expectations of certain economic operators and stakeholders. For instance, the new Article 9(4) requires that national authorities process requests for import authorisation to deliver an electronic authorisation in under 60 days (from the submission of all the information requested), and the new Article 9(9) specifies that importers shall pay no other charge than escorting fees, as appropriate. The same applies to the corresponding new provisions on exports: Article 15(4) provides for a standard time to process the request, Article 15(6) mentions the use of electronic means (whereas Regulation (EU) 258/2012 referred to the principle of 'national practices' on such obligations), and Article 15(8) refers to the absence of fees, except for escorting fees. Article 28 on an electronic licensing system specifies that the Commission shall establish and maintain such a system for import and export authorisations and decisions.

The proposal also contains provisions that aim to improve the overall efficiency of coordination among national authorities, to limit the risk of fragmented interpretation by these authorities. Article 8(6) on alarm and signal weapons empowers the Commission to adopt implementing acts in case of diverging national practices on such goods. More broadly, Article 23 on the exchange of information and cooperation between authorities establishes an obligation of close cooperation between the Commission and national authorities (including customs authorities) based on the exchange of information, including risk information. Article 22(4) also confirms that 'the custom authorities shall have the necessary powers and resources for the proper performance of their tasks under this regulation'. The new Article 25 ensures the sharing of seizure data among national authorities, as well as a common methodology to organise communication with the competent authorities following the discovery of an illicit shipment.

In addition to the implementing acts mentioned above, Article 35 and Article 36 empower the Commission to adopt **delegated acts**⁷ to amend Annex I (list of firearms, their parts, ammunition, signal and alarm weapons), Annex II (template for import authorisation) and Annex III (template for export authorisation) to the proposal.

National parliaments

Parliaments could provide their opinions on the proposal until 23 January 2023. On 18 January 2023, the Czech Senate adopted a [resolution](#) on the proposal; this resolution supports the Czech government position, expresses concern in relation to the suppression of administrative fees, supports the application of benefits recognised by Article 10.6 of the UN protocol to historical reconstitutions, and expresses concern regarding the digitalisation of the import and export licence processes. The Irish Houses of Oireachtas, the Lithuanian Seimas and the Spanish Cortes Generales examined the proposal and did not raise any subsidiarity [issue](#).

Stakeholder views

Stakeholders have shared options to limit the risks associated with the international trade in firearms, also for civilian purposes. For instance, on 21 October 2022 the International Action Network on Small Arms issued a [paper](#) on post-shipment control of small arms and light weapons. Taking inspiration from the US federal initiative '[Blue Lantern](#)', the International Action Network on Small Arms proposes additional steps following export, to curb the risk of firearms trafficking. The relevant national authorities of the export State could retain specific competences following completion of the export operation. Such competences could be activated through several complementary tools, such as the right to inspect the goods exported, the use of end-user certificates to peg the use of the firearm exported with its legal owner, or a limitation on re-exporting firearms.

Following adoption of the proposal, several stakeholders active in the EU firearms trade and the ammunition sector provided feedback. For instance, the European Association of the Civil Commerce of Weapons voiced its [concern](#) regarding the establishment of the 'end-user certificate' mentioned above. The Federation of Associations for Hunting and Conservation of the EU stressed the importance of a strong European firearms [industry](#).

Legislative process

The file has been assigned to the Parliament's Committee on International Trade. The Committees on Civil Liberties and Justice and Home Affairs will provide opinions.

In the Council, the [Working Party on Customs Union](#) has started to examine the proposal.

EUROPEAN PARLIAMENT SUPPORTING ANALYSIS

Ahamad Madatali H. with Eggers S., [Rules on export and import authorisations and transit measures for firearms](#), EPRS, European Parliament, May 2022.

Neville A., [EU action plan on firearms trafficking 2020-2025](#), Legislative train, European Parliament.

OTHER SOURCES

Hainard E. and Shumska O., [The 2021 small arms trade transparency barometer](#), Briefing Paper, Small Arms Survey, December 2021.

Duquet N. (ed.), [Triggering Terror: Illicit Gun Markets and Firearms Acquisition of Terrorist Networks in Europe](#), Flemish Peace Institute, 2018.

Protection of consumers: [Import, export and transit measures for firearms, their essential components and ammunition: implementation of Article 10 of the UN Firearms Protocol](#), Legislative Observatory (OEIL), European Parliament.

United Nations Office on Drugs and Crime, [Global study on firearms trafficking](#), UNODC, 2020.

ENDNOTES

- ¹ Belgium, Germany, France, Italy, Lithuania, Latvia, Netherlands, Hungary, Austria, Slovakia, Poland, Romania.
- ² The protocol supplements the UN [Convention against Transnational Organized Crime](#), adopted in 2000, by providing a framework for State Parties to control and regulate licit arms and arms flows, prevent their diversion into the illegal circuit, and facilitate the investigation and prosecution of related offences without hampering legitimate transfers.
- ³ Recital 4 reads 'The Protocol provides for measures falling within the scope of the Union's common commercial policy. Several Union legal acts have been adopted which aim to facilitate and eliminate barriers for the transfer of conventional arms within the internal market or which aim to regulate the export of arms to third countries.'
- ⁴ Article 10: 1. Each State Party shall establish or maintain an effective system of export and import licensing or authorization, as well as of measures on international transit, for the transfer of firearms, their parts and components and ammunition. /2. Before issuing export licences or authorizations for shipments of firearms, their parts and components and ammunition, each State Party shall verify: (a) That the importing States have issued import licences or authorizations; and (b) That, without prejudice to bilateral or multilateral agreements or arrangements favouring landlocked States, the transit States have, at a minimum, given notice in writing, prior to shipment, that they have no objection to the transit. /3. The export and import licence or authorization and accompanying documentation together shall contain information that, at a minimum, shall include the place and the date of issuance, the date of expiration, the country of export, the country of import, the final recipient, a description and the quantity of the firearms, their parts and components and ammunition and, whenever there is transit, the countries of transit. The information contained in the import licence must be provided in advance to the transit States. /4. The importing State Party shall, upon request, inform the exporting State Party of the receipt of the dispatched shipment of firearms, their parts and components or ammunition. /5. Each State Party shall, within available means, take such measures as may be necessary to ensure that licensing or authorization procedures are secure and that the authenticity of licensing or authorization documents can be verified or validated. /6. State Parties may adopt simplified procedures for the temporary import and export and the transit of firearms, their parts and components and ammunition for verifiable lawful purposes such as hunting, sport shooting, evaluation, exhibitions or repairs.
- ⁵ Article 4.2: 'The unique marking referred to in point (a) of paragraph 1 shall include the name of the manufacturer or brand, the country or place of manufacture, the serial number and the year of manufacture, if not already part of the serial number, and the model where feasible. This shall be without prejudice to the affixing of the manufacturer's trademark. Where an essential component is too small to be marked in compliance with this Article, it shall be marked at least with a serial number or an alphanumeric or digital code (...) Member States shall ensure that each elementary package of complete ammunition is marked in such a way as to indicate the name of the manufacturer, the batch or lot identification number, the calibre and the type of ammunition.'
- ⁶ Article 10(6): see endnote 4 above.
- ⁷ [Article 290](#) TFEU stipulates that a [delegated act](#) is a non-legislative act adopted by the Commission to supplement or amend certain non-essential elements of a legislative act. The European Parliament is informed of the preparation of the delegated act, and can object to it. In the case at hand, the Commission might adopt the list and the templates corresponding respectively to Annex I, Annex II and Annex III.

DISCLAIMER AND COPYRIGHT

This document is prepared for, and addressed to, the Members and staff of the European Parliament as background material to assist them in their parliamentary work. The content of the document is the sole responsibility of its author(s) and any opinions expressed herein should not be taken to represent an official position of the Parliament.

Reproduction and translation for non-commercial purposes are authorised, provided the source is acknowledged and the European Parliament is given prior notice and sent a copy.

© European Union, 2023.

eprs@ep.europa.eu (contact)

www.eprs.ep.parl.union.eu (intranet)

www.europarl.europa.eu/thinktank (internet)

<http://epthinktank.eu> (blog)

First edition. The 'EU Legislation in Progress' briefings are updated at key stages throughout the legislative procedure.