


# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	2006/0031(COD) Procedure completed
Control of the acquisition and possession of weapons	
Subject 2.80 Cooperation between administrations 7.30.12 Control of personal weapons and ammunitions	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>IMCO</b> Internal Market and Consumer Protection		02/05/2006
		Vers/ALE <a href="#">KALLENBACH Gisela</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	<b>LIBE</b> Civil Liberties, Justice and Home Affairs (Associated committee)		13/09/2006
		ALDE <a href="#">PICKART ALVARO Alexander Nuno</a>	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Justice and Home Affairs (JHA)</a>	<a href="#">2863</a>	18/04/2008
	<a href="#">Justice and Home Affairs (JHA)</a>	<a href="#">2838</a>	06/12/2007
European Commission	Commission DG <a href="#">Internal Market, Industry, Entrepreneurship and SMEs</a>	Commissioner VERHEUGEN Günter	

Key events			
02/03/2006	Legislative proposal published	<a href="#">COM(2006)0093</a>	Summary
03/04/2006	Committee referral announced in Parliament, 1st reading		
26/10/2006	Referral to associated committees announced in Parliament		
27/06/2007	Vote in committee, 1st reading		Summary
12/07/2007	Committee report tabled for plenary, 1st reading	<a href="#">A6-0276/2007</a>	
28/11/2007	Debate in Parliament		
	Results of vote in Parliament		

29/11/2007			
29/11/2007	Decision by Parliament, 1st reading	<a href="#">T6-0559/2007</a>	Summary
18/04/2008	Act adopted by Council after Parliament's 1st reading		
21/05/2008	Final act signed		
21/05/2008	End of procedure in Parliament		
08/07/2008	Final act published in Official Journal		

### Technical information

Procedure reference	2006/0031(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC Treaty (after Amsterdam) EC 095-p1
Stage reached in procedure	Procedure completed
Committee dossier	IMCO/6/35337

### Documentation gateway

Legislative proposal		<a href="#">COM(2006)0093</a>	02/03/2006	EC	Summary
Economic and Social Committee: opinion, report		<a href="#">CES1157/2006</a>	13/09/2006	ESC	
Committee draft report		<a href="#">PE380.818</a>	07/11/2006	EP	
Amendments tabled in committee		<a href="#">PE388.493</a>	27/04/2007	EP	
Committee opinion	<b>LIBE</b>	<a href="#">PE380.586</a>	07/06/2007	EP	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A6-0276/2007</a>	12/07/2007	EP	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T6-0559/2007</a>	29/11/2007	EP	Summary
Commission response to text adopted in plenary		<a href="#">SP(2007)6527</a>	18/12/2007	EC	
Draft final act		<a href="#">03690/2007/LEX</a>	21/05/2008	CSL	
Follow-up document		<a href="#">COM(2010)0404</a>	27/07/2010	EC	Summary
Follow-up document		<a href="#">COM(2012)0415</a>	26/07/2012	EC	Summary
Follow-up document		<a href="#">COM(2015)0751</a>	18/11/2015	EC	Summary

### Additional information

National parliaments	<a href="#">IPEX</a>
European Commission	<a href="#">EUR-Lex</a>

### Final act

--

## Control of the acquisition and possession of weapons

---

**PURPOSE** : to make amendments to Council Directive 91/477/EEC in order to take into account the accession of the EC to the United Nations Protocol on the illicit manufacturing of and trafficking in firearms, their parts components and ammunition (Firearms Protocol).

**PROPOSED ACT** : Directive of the European Parliament and of the Council.

**CONTENT** : on behalf of the European Community the Commission signed the Firearms Protocol, annexed to the United Nations Convention against transnational organised crime. The purpose of this Protocol is to promote cooperation among States Parties in order to prevent the illicit manufacturing of and trafficking in firearms. It comprises 21 Articles that aim essentially to prevent the illicit manufacturing of and trafficking in firearms. However, some provisions in the Protocol entail limited technical amendments, specifically to Council Directive 91/477/EEC on control of the acquisition and possession of weapons, even though the aim of the Protocol evidently differs from that of the Directive. The latter is applicable only to the legal trade in certain types of weapons (e.g. excluding military weapons), and solely in the context of the Internal Market.

This proposal does not, therefore, concern the aspects of the Protocol that fall outside the scope of Directive 91/477/EEC, such as the import/export arrangements applied by the Member States at the external borders of the EU.

The proposal deals with a series of technical amendments to define, within the scope of application of the Directive, the notions of illicit manufacturing and trafficking of firearms, to reaffirm the need for marking, to increase the period for keeping registers prescribed by the Directive, to clarify the applicable penalties and to set out the general principles on the deactivation of weapons defined by the United Nations Protocol.

The main amendments are as follows:

- the concepts of illicit manufacturing of and trafficking in firearms, their parts and components and ammunition should be specified in the Directive by using the definitions of these activities contained in the Protocol ? Article 3 ? in the aim, of course, of achieving legal clarity, certainty and coherence;
- the fight against organised crime also makes the tracing of firearms particularly important. Certain technical amendments aim to facilitate the tracing under Directive 91/477 of the arms referred to. For instance, the principle of marking firearms at the time of manufacture ? those which fall within the scope of the Directive of course ? appears only indirectly in the second paragraph of Article 4 of Directive 91/477, in references to identification particulars that must be recorded in the dealers' registers. In contrast, the Protocol clearly establishes a marking obligation ("marking of firearms"). This can be incorporated without modification into the Directive. Article 4 of the Directive should also include the instruction to ensure also that firearms are marked at the time of transfer from government stocks to permanent civilian use;
- Article 4 requires dealers to conserve, for a period of at least five years, a register in which information on all firearms received or disposed of by him is recorded. To strengthen the security aspect of the Directive, the minimum 10-year period specified by the Protocol for keeping the registers should be adopted;
- furthermore, it must be stated that brokering activities, as mentioned in Article 15 of the Protocol, fall within the definition of dealer given by the Directive;
- the Protocol provides that each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences acts committed intentionally, in particular the illicit manufacturing of or trafficking in firearms. The language used in the Directive to describe the applicable penalties must therefore be strengthened, in order to increase their effectiveness;
- furthermore, Annex I to Directive 91/477 states that the objects which correspond to the definition of a firearm but which have been permanently rendered unfit for use by the application of technical procedures will not be considered as weapons that fall within the scope of the Directive. However, Article 9 of the Protocol sets out more extensive general principles for the deactivation of firearms that must be incorporated into the amended Directive.

The proposed amendments do not cover new problems in relation to the general economy of the Directive. They merely adapt the provisions of the Directive to the new legal context brought about by Community accession to the Protocol.

## Control of the acquisition and possession of weapons

---

The Committee on the Internal Market and Consumer Protection adopted a report drawn up by Gisela Kallenbach (Greens/EFA, DE) and made several amendments to the proposal designed to tighten up gun controls, including restricting the sale of guns through the web. The principal amendments were as follows:

- scope of the directive: the directive will also apply to parts and ammunition of firearms, including those imported from third countries. The rules covering the acquisition and possession of ammunition capable of being used will be identical to the rules covering the possession of the firearms for which ammunition is intended. The directive will cover collectors and bodies concerned with cultural or historical aspects. Furthermore, the acquisition of firearms by private individuals through means of distance communications, for example via the Internet, will be subject to the rules laid down in the Directive and the acquisition of firearms by persons convicted by a final court judgment of certain serious criminal offences prohibited. The Committee felt that, given that intelligence evidence shows an increase in the use of converted weapons within the EU, it was essential to ensure that such convertible weapons were brought within the definition of 'firearm'. For the activities of cultural and historical institutions and associations which deal with and use weapons for peaceful purposes, mutual recognition of national documents for the cross-border transfer and use of weapons and ammunition should be put into practice, as provided for example in the bilateral agreement between Germany and Austria of 28 June 20021;

- marking system: in order to facilitate the tracing of weapons, the Committee stated that it is necessary to use only alphanumeric symbols and to include in the marking the year of manufacture of the weapon (if not part of the serial number). The Convention of 1 July 1969 on Reciprocal Recognition of Proof marks on Small Arms should be used as a reference for the marking system in the EU as a whole.

- record keeping: the Committee inserted a clause stipulating that each Member State shall ensure the maintenance of a computerised and centralised data filing system, in which each firearm subject to this Directive is attributed a unique identification number. This filing system shall record and maintain for not less than 20 years (rather than 10 years as the Commission had proposed) each firearm's type, make, model, calibre, serial number and year of manufacture (if not part of the serial number), the name and address of the manufacturer and former and current owner of the firearm, any trade or transfer, exchange, hiring out, repair or conversion of the firearm, and such other information as is necessary to enable the tracing of the firearm. The filing system shall also contain information enabling the tracing of parts and ammunition. Dealers and brokers, throughout their period of activity, will be required to maintain a register in which all firearms subject to the Directive and which are received or disposed of by them will be recorded, together with such particulars as enable the weapon to be identified and traced, in particular the type, make, model, serial number and year of manufacture (if not part of the serial number) and the names and addresses of the persons supplying and acquiring the weapon. Upon the cessation of his activities, the dealer or broker shall deliver the register to the national authority responsible for the registration system provided for in the Directive;

- exchange of information between Member States: Member States must, on a regular basis, exchange information relating to marking systems and techniques, the number of authorised dealers and brokers, transfers of firearms and their parts and ammunition, national legislation and practices, existing stocks on their territories, confiscated firearms and deactivation methods and techniques. They must also, in accordance with the European Convention on Mutual Assistance in Criminal Matters of 1959, exchange information on persons having been found guilty by a final court judgment of a serious criminal offence defined in the Directive. The Commission must set up a contact group for the exchange of information for the purposes of applying this Article, and for cooperation regarding the tracing of illicit firearms and their parts and ammunition;

- profession of a dealer: due to the special nature of the activity of dealers and brokers, Member States must exercise a strict control over this activity, in particular to verify the professional integrity and abilities of those dealers and brokers. The Committee inserted definitions of 'dealer' and 'broker';

- brokering activities: a natural or legal person who carries out brokering activities involving

the transfer of firearms, their parts and ammunition will be subject to the same system of authorization as dealers;

- control: intra-community transfers must undergo physical inspection, at least on a random basis, by the authorities at the time of shipment or upon arrival with the recipient to ensure that the information corresponds to the actual consignment. In order to allow such inspections, authorities should be informed at least 5 working days prior to the transfer;

- the European Firearms Pass: the Pass functions in a satisfactory way in the main and should be regarded as the only document needed by hunters and marksmen to transfer a firearm to another Member State. The failure to carry a European firearms pass shall not be subject to custodial sentences;

- deactivation of firearms: the Commission shall issue common guidelines, following the procedure set in the Directive, on deactivation standards and techniques to ensure that deactivated firearms are permanently inoperable;

- antique weapons: a definition was inserted stating the term shall mean either any weapon manufactured before 1900, including replicas, or any newer weapon defined as an antique weapon by a Member State according to technical criteria;

- reports: within 5 years of the date of transposition, and every fifth year thereafter, the Commission must submit a report on the application of the Directive, accompanied, if appropriate, by proposals. The Commission shall carry out a study on the marketing of replica weapons within the Community. The Commission shall also carry out a study on the simplification and better functioning of the internal market in firearms. On the basis of this study, the Commission shall, if appropriate, submit a proposal three years after entry into force of the Directive, for the reduction of the classification of firearms into two categories, with possible derogations for hunters and sportsmen.

Lastly, the Committee adopted an innovative provision, which would require Member States to inform the European Parliament (and not just the Commission) of measures they take to implement the directive.

## Control of the acquisition and possession of weapons

---

The European Parliament adopted a report drawn up by Gisela KALLENBACH (Greens/EFA, DE) and made several amendments to the proposal designed to tighten up gun controls, and introduce mechanisms relating to administrative cooperation. The report was adopted by 588 votes in favour to 14 against with 11 abstentions.

Following a series of discussions between the Commission, Parliament and Council, the main compromise amendments are as follows:

Definitions: Parliament amended the definition of 'firearm' and inserted definitions for 'parts', 'ammunition', 'tracing', 'broker', and 'dealer'.

European firearms pass: this is stated to be a document which is issued on request by the authorities of a Member State to a person lawfully entering into possession of and using a firearm. It shall be valid for a maximum period of five years. The period of validity may be extended. It shall contain the information set out in Annex II. The European firearms pass is a non-transferable document, on which shall be entered the firearm or firearms possessed and used by the holder of the pass. The pass must always be in the possession of the person using the firearm. Changes in the possession or characteristics of the firearms shall be indicated on the pass, as well as the loss or theft of the firearm.

Tracing: for the purpose of identifying and tracing each assembled firearm, the Member States shall, at the time of manufacture of each firearm, either require unique marking including the name of the manufacturer, the country or place of manufacture, the serial number and the year of manufacture (if not part of the serial number). This is without prejudice to the possible affixation of the trademark. For these purposes, the Member States may choose to apply the provisions of the Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms (CIP), or maintain any alternative unique user-friendly marking with a number or alphanumeric code, permitting ready identification by all States of the country of manufacture. The marking shall be affixed to an essential component of the firearm, the destruction of which would

render the firearm unusable. Member States shall require the marking of every single elementary package of complete ammunition, providing the name of the manufacturer, the identification batch (lot) number, the calibre and the type of ammunition. For these purposes Member states may choose to apply the provisions of the CIP.

Data filing system: each Member State shall ensure, at the latest by 31 December 2014, the maintenance of a computerised data filing system, either a centralised system or a decentralised system which guarantees access of the authorised authorities to the data filing systems in which each firearm subject to this Directive shall be recorded. This filing system shall record and maintain for not less than 20 years each firearm's type, make, model, calibre, serial number and the names and addresses of the supplier and the person acquiring or possessing the weapon. Dealers, throughout their period of activity, shall be required to maintain a register in which all firearms subject to the Directive and which are received or disposed of by them shall be recorded, together with such particulars as enable the weapon to be identified and traced, in particular the type, make, model, calibre, serial number and the names and addresses of the persons supplying and acquiring the weapon. Upon the cessation of his activities, the dealer shall deliver the register to the national authority responsible for the registration system provided for in the text. Member States shall ensure that any firearm or part placed on the market is marked and registered in compliance with this Directive, or otherwise deactivated.

Member States shall ensure that all firearms may be linked to their current owners. However, as regards firearms classified in category D, Member States shall as from the date of transposition put into place appropriate tracing measures, including, as from 31 December 2014, measures enabling linking to the current owner of firearms placed on the market after the date of transposition.

Data protection: a new recital states that the processing of information is subject to compliance with Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data and cannot prejudice the level of protection of individuals with regard to the processing of personal data under the provisions of the Community and national law, and in particular does not alter the obligations and rights set forth in Directive 95/46/EC.

Persons permitted to acquire a firearm: Member States will permit the acquisition and possession of firearms only by persons who have good cause and who: i) are at least 18 years of age, except in relation to the acquisition (except for purchase) and possession of firearms for hunting and target shooting, provided that in that case persons less than 18 years of age have parental permission or are under parental guidance or guidance of an adult with a valid firearms or hunting license or are within a licensed training or otherwise approved centre; ii) are not likely to be a danger to themselves, to public order or to public safety. Having been convicted of a violent intentional crime shall be considered as one indication of such danger. Member States may withdraw the authorisation of possession of the firearm if any of the conditions on the basis of which it was granted are no longer satisfied.

Member States may not prohibit persons resident within their territory from possessing a weapon acquired in another Member State unless they prohibit the acquisition of the same weapon within their own territory.

Member States shall allow the acquisition and possession of firearms only by persons who were granted a licence or, with respect to categories C or D, who are specifically permitted to do so in accordance with national law.

Brokers: Member States shall consider establishing a system of regulating the activities of brokers. Such a system could include one or more measures such as: a) requiring registration of brokers operating within their territory; b) requiring licensing or authorisation of brokering

Reports: within five years from the date of transposition of the Directive into national law, the Commission shall submit a report on the situation resulting from the application of the Directive, accompanied, if appropriate, by proposals.

Within four years from the date of entry into force of the Directive, the Commission shall carry out research and submit a report on the possible advantages and disadvantages of a reduction to two categories of firearms (prohibited or authorised) with a view to better functioning of the internal market for the products in question, through possible simplification. A new recital points out that several Member States have recently simplified the way they classify firearms by switching from four categories to the following two: prohibited firearms and firearms subject to authorisation. Member States should fall into line with this simplified classification, although Member States which currently divide firearms into a further set of categories may, in accordance with the principle of subsidiarity, maintain their existing classification systems.

Within two years from the date of entry into force of the Directive into national law, a report shall present the conclusions of a study of the issue of the placing on the market of replica firearms in order to determine whether the inclusion of such products in the present Directive is possible and desirable.

Sanctions: a recital states that in some serious cases, compliance with Articles 5 and 6 of the Protocol requires the application of criminal sanctions and confiscation of the weapons

Contact group: for the purpose of an efficient application of the Directive, Member States shall exchange information on a regular basis. To this end, the Commission shall set up a contact group for the exchange of information. Each Member State shall inform the other Member States and the Commission of the national authorities responsible for transmitting and receiving information and for complying with the obligations set out in Article 11(4).

Deactivation: the Commission shall issue common guidelines on deactivation standards and techniques to ensure that deactivated firearms are permanently inoperable.

## Control of the acquisition and possession of weapons

---

PURPOSE: to make amendments to Council Directive 91/477/EEC in order to take into account the accession of the EC to the United Nations Protocol on the illicit manufacturing of and trafficking in firearms, their parts components and ammunition (Firearms Protocol), and to improve the Directive.

LEGISLATIVE ACT: Directive 2008/51/EC of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons.

CONTENT: the Council, Austria abstaining, adopted a directive aimed at improving rules on the control of the acquisition and possession of weapons in the EU, by approving the European Parliament amendments voted at first reading under the codecision procedure. The Directive updates current rules on the control of weapons in order better to tackle the criminal use of firearms without inconveniencing legitimate owners

(such as hunters and target shooters).

In particular, the Directive will reinforce rules aimed at enhancing safety with respect to gun ownership, including:

- control of the sale of guns over the internet;
- reinforcement of the marking and tracing system;
- computerisation and extension of the period for which records must be kept to 20 years;
- compliance with EU data-protection legislation.

In addition, it incorporates technical amendments into existing legislation in order to align it with the United Nations protocol on illicit manufacturing and trafficking of firearms, which supplements the UN convention against transnational organised crime.

The main points are as follows :

- the concepts of illicit manufacturing of and trafficking in firearms, their parts and components and ammunition are specified in the Directive by using the definitions of these activities contained in the Protocol ? Article 3 ? in the aim of achieving legal clarity, certainty and coherence. Convertible weapons are brought within the definition of a firearm for the purposes of Directive 91/477/EEC;
- the activities of brokers, as well as dealers, come under the scope of the Directive ;
- the Directive establishes an obligation to mark weapons at the time of manufacture and at the time of transfer from government stocks to permanent civilian use;
- alphanumeric codes will be used in order to trace weapons;
- Member States must, by 31 December 2014, keep a computerised data-filing system which guarantees access to authorised authorities to the data-filing systems in which the necessary information regarding each firearm is recorded. This filing system shall record and maintain for not less than 20 years each firearm's type, make, model, calibre and serial number, as well as the names and addresses of the supplier and the person acquiring or possessing the firearm;
- access by police, judicial and other authorised authorities to the information contained in the computerised data-filing system must be subject to compliance with Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms;
- the professional integrity and abilities of dealers will be verified.

TRANSPOSITION : 28/07/2010.

ENTRY INTO FORCE : 28/07/2008.

## Control of the acquisition and possession of weapons

---

This report on the placing on the market of replica firearms is drafted by virtue of Article 17 of Council Directive 91/477/EEC on the control of the acquisition and possession of weapons, as amended by Directive 2008/51/EC of the European Parliament and of the Council.

The issue of replica firearms which arose during the legislative work leading to the adoption of Directive 2008/51/EC is largely due to the integration of security concerns in a Directive which was initially merely a Directive intended to simplify, with the requisite security guarantees, the circulation of firearms owned by civilians in the internal market. However, during the discussion of the amended Directive in the European Parliament, a number of policy experts who had been invited by MEPs explained the potentially criminal use of, for example, alarm guns (or guns designed for firing blanks), when converted into real firearms by delinquents.

As a direct consequence of this concern, the definition of firearm in the amended Directive, extracted almost word-for-word from the "Firearms Protocol", includes objects "capable of being converted to expel a shot, bullet or projectile by the action of a combustible propellant if it has the appearance of a firearm, and as a result of its construction or the material from which it is made, it can be so converted."

The Directive therefore does not apply to other products which have the appearance of a firearm, such as replica firearms, for which no definitions are contained in the Directive.

The report states that nine Member States do not, or not really, include the concept of a replica in their legislation and do not have any major problems relating to public order caused by the use of replicas, whereas 15 others do not report any particular or significant problems with transfers or imports from other countries. Only a few Member States with more restrictive national legislation on replicas sometimes express concerns linked to cross-border movements of replica firearms. In these conditions, there is very little to suggest that European harmonisation of national legislation on replicas would improve the functioning of the internal market by removing barriers to the free movement of goods or by eliminating distortions of competition.

Furthermore, the Member States already have a real degree of discretion in issuing rules on the placing on the market and use of replicas. These national rules governing the marketing and use of replicas must respect the principle of the free movement of goods (Articles 34 to 36 of the Treaty on the Functioning of the European Union, TFEU) and of course be without prejudice to any specific police cooperation measures.

However, it is equally clear that such regulations can, this time in compliance with Article 36 TFEU, be justified for reasons of public safety and the protection of the health and life of persons, albeit provided that the regulations in question do not undermine the principle of proportionality. In particular, it must not be possible for the pursued objective to be achieved by measures less restrictive to intra-Community trade. With regard to replica firearms, various aspects therefore need to be taken into consideration when judging the proportionality of the measure: in particular, we must examine whether bans are absolute or whether derogations exist, the limitation of bans on sale to minors, Internet- or simply distance-selling, and the limitation of the ban on using or exhibiting replicas in public places.

Moreover, the free movement of replica firearms within the EU is also provided for by Regulation (EC) No 764/2008 of the European Parliament and of the Council of 9 July 2008 laying down procedures relating to the application of certain national technical rules to products

lawfully marketed in another Member State and repealing Decision No 3052/95/EC. This Regulation is applicable as of 13 May 2009. It establishes the rules and procedures to be followed by the competent authorities of a Member State when they make or intend to make a decision referred to in Article 2(1) which would impede the free movement of a product legally placed on the market in another Member State and which falls within the scope of Article 34 TFEU.

Consequently, Articles 34 and 36 TFEU and Regulation (EC) No 764/2008 already facilitate the free movement of these products within the EU, while taking account of the security concerns of the Member States.

The inclusion of all replicas in the field of application of Directive 91/477/EEC would automatically make them subject to all the provisions of the Directive. However, it should be remembered that, since its amendment by Directive 2008/51/EC, the Directive already applies to replicas which can be converted into firearms, namely certain alarm guns (or certain replicas intended simply to shoot blanks) which, due to their appearance and how they were produced, are so similar to a firearm that all the requirements of the Directive (marking, traceability, firearms register in particular) are easily applicable.

Extending the Directive to other types of replica would be much more difficult, since this would mean that manufacturers, dealers and owners of these replicas would be subject to all the obligations of the Directive. However, at present, the Member States can already require authorisation for any possession, acquisition or transfer of a replica in accordance with Article 36 TFEU. Moreover, and still on the basis of the above assumption, sensitive issues undoubtedly arise regarding in particular the breakdown of replicas included in the nomenclature set out in Annex I to Directive 91/477/EC, which divides firearms into different categories.

It is for these reasons that replicas, with their various characteristics and purposes, should not be included in the field of application of Directive 91/477/EC, especially as those which can be converted to a firearm and therefore treated as one are now covered by Directive 2008/51/EC.

## Control of the acquisition and possession of weapons

---

In accordance with the requirements of Directive 91/477/EEC as amended by Directive 2008/51/EC, the Commission presents a report on the possible advantages and disadvantages of reducing the classification to two categories of firearms (prohibited or authorised) with a view to improving the functioning of the internal market for the products in question through simplification.

To recall, Directive 91/477/EEC classifies firearms primarily in terms of their degree of danger. There are therefore four categories: Category A consisting of prohibited firearms – military weapons; Category B including firearms subject to authorisation – used mostly by marksmen and hunters; Category C covering firearms subject to declaration – essentially firearms used by hunters; and, lastly, Category D for other firearms which mainly applies to one type of firearm.

It is further recalled that the Directive does not apply to the acquisition or possession of weapons by the armed forces, the police, the public authorities or by collectors and bodies concerned with the cultural and historical aspects of weapons. The aim of the report is, therefore, to re-examine the question of the classification of firearms with explicit reference to the better functioning of the internal market.

Assessment of the economic importance of the sector:

- one group of Member States has no, or almost no, manufacturing industry producing civilian firearms (e.g. Finland and Hungary)
- another group of countries has a relatively solid, often traditional, manufacturing industry, although production levels are not very high, e.g. Slovakia, the Czech Republic, Austria and Poland.
- the most heavily-populated Member States are the ones with the main production areas, although this is becoming less systematic as the manufacturing industries decline. Although Germany and Italy still retain an important level of manufacturing, often geared towards exports, France, the United Kingdom and, to a lesser extent, Spain have seen a major decline in the manufacture of arms for civilian use. However, some of these countries, such as France, still maintain an important network of dealers.
- certain Member States with small populations but which have high proportions of hunters and hobby marksmen, e.g. Sweden, Finland and Denmark.

The largest numbers of hunters and hobby marksmen are found in the most heavily-populated Member States. The figure given for hunters in France is more than 1 400 000, with around 850 000 in Italy and more than 1 500 000 in Spain. The number of hobby marksmen has always been lower than that of hunters, but is still significant: around 300 000 for Italy, 213 000 for France and around 14 600 for Poland.

Information on trends in crimes linked with the use of firearms: the answer to the question of whether recent years have seen a significant increase in crimes involving hunting or sporting firearms is mostly negative. Some Member States, such as Greece, Poland, Sweden and Portugal, have experienced a slight or insignificant rise.

With regard to traceability, most Member States consider that there are relatively few problems, at least at national level, in tracing firearms for civilian use.

However, certain difficulties do occur in the collection and processing of information relating to the tracing of a weapon which may have had a whole string of owners. In particular, one essential requirement would appear to be the keeping of good records by the Member States – and by the dealers – and their accessibility to the competent task forces.

Member States hold different views on the appropriateness of reducing the number of categories: certain Member States, such as Poland, the United Kingdom, Ireland, Denmark and Latvia, are interested in reducing the classification at European level to two categories, as they feel this would simplify matters. Other Member States think that the discretion allowed by the current classification of the Directive should be retained. For example, Sweden, Italy, Hungary and Belgium do not see any real benefits in modifying the current classification. They consider that any revision would bring an additional burden and engender unnecessary costs. Most Member States do not think that reducing the classification would be of clear benefit to the better functioning of the internal market. The concern was even expressed that a reduced number of categories could divert legal trade in weapons to illegal channels.

Hunters (numbering approximately seven million across the European Union) appear to be satisfied with the current classification, which is based on hunting traditions and the safety concerns of their Member State. Whilst major users do not criticise the current classification of firearms, they desire certain simplification measures to improve the functioning of the internal market, and these are described in the report.

The latter concludes that there would be no clear benefit in a compulsory restriction of the classification at EU level to only two firearms categories. In any case, this issue should not be treated in isolation, as there would be a risk that the discussion would focus solely on the question of which type of document would constitute authorisation, and this would probably result in a situation hardly different from the current one of diversity within the EU.

The analysis of the possible and desirable ways in which Directive 2008/51/EC could be developed should therefore be set primarily against the background of the report on the situation resulting from the application of the Directive to be submitted by the Commission to the European Parliament and the Council by 28 July 2015 accompanied, if appropriate, by proposals and should target a form of simplification that takes account of all the specific needs and constraints of this type of product.

## Control of the acquisition and possession of weapons

---

The Commission presents an evaluation of Council Directive 91/477/EC, as amended by Directive 2008/51/EC of 21 May 2008, on control of the acquisition and possession of weapons. This evaluation has been linked to the regulatory fitness and performance (REFIT) programme of the Commission.

To recall, the two main objectives of the Firearms Directive are to ensure the proper functioning of the internal market and to ensure a high level of security in the EU. It provides in particular minimum requirements for the acquisition and possession of firearms for civil use in the EU and harmonised administrative measures for the transfer of firearms within the EU.

Purpose of the report: in order to prepare the report, the Commission launched an evaluation study carried out by external consultants. The aim of this report is to describe the findings of the evaluation study, complement them with feedback received so far.

The report begins by recalling the background and main provisions of the Firearms directive. It presents the methodology of the evaluation using five criteria (effectiveness, efficiency, consistency, relevance and Union added value) as well as the recommendations of the evaluation. It also presents a critical assessment of the conclusions. Lastly, the report sets out the actions that the Commission envisaged taking to deal with the problems revealed by the evaluation and confirmed by Member States feedback.

Conclusions of the evaluation and the way ahead: the evaluation study showed that that the Firearms Directive has positively contributed to the functioning of the internal market supporting cross border movement of firearms and maintaining high levels of security, has EU added value and is relevant. However, some obstacles remain that could risk undermining its functioning. The evaluators and the discussion with Member States have highlighted the following critical issues for further action:

- the issue of convertibility of blank firing weapons (such as alarm guns) into real firearms: the evaluation highlighted the importance of clarifying the definition of convertibility and the criteria defining alarm weapons so as to create a common understanding of which types of alarm weapons can be converted and to restrict the circulation of those that proved to be convertible into operable firearms;
- the need to clarify requirements for the marking of firearms (allowing their traceability): the evaluation recommended the adoption of EU-wide standards for marking, and including in the Directive an obligation to mark all essential components at the time of manufacturing or import;
- the need for common and stringent guidelines for the deactivation of firearms: the evaluation recommended continuing the ongoing process of defining common guidelines on deactivation standards and techniques for firearms in line with the provisions of the Directive which explicitly provides for the drafting of common deactivation guidelines by the Commission. The scope of the guidelines should be extended in order to address rules related to the requirements for the ownership, sale, or transfer of deactivated firearms;
- the need to clarify definitions: the report suggests performing a preliminary in-depth analysis of the firearms parts regulated and marked across Member States and addressing at EU level differences between the definition of essential components included in the Firearms Directive and parts and components regulated by the United Nations Protocol against the illicit manufacturing on firearms. The evaluation recommends aligning the definitions;
- the need to consider internet selling arrangements: the evaluation recommended further measures to facilitate knowledge sharing among Member States regarding developments in the firearms market and trafficking (such as the online market for firearms, firearms parts and other weapons), and the impact of new technologies (3D printing) on control and tracing of weapons;
- the need to streamline and improve the national data-exchange systems and explore the possibilities for interoperability: the evaluation recommended improving the accessibility at EU level of information collected at national level for all interested parties, especially in consideration of information costs that SMEs might be incurred (e.g. by creating a database collecting information on the existing legislation and requirements in the 28 Member States);
- the need to strengthen data collection activities related to civilian firearms and related criminal offences to support appropriately future decision-making processes at EU level.

Review of the Directive: since work on standards and guidelines on deactivation was well advanced, the Commission decided to advance the review of the Directive taking into consideration the impact of the terrorist attacks on 15 November in Paris as well as previous attacks and shooting in Paris and Copenhagen and the incident in Thalys.

In line with the Commission Communication "[The European Agenda for Security](#)", in answer to the EU minister's Riga Joint Statement and to the Declaration from the Home Affairs Ministers of 29 August 2015, the Commission has decided to accompany this report with a [proposal for the revision of the Directive](#) on the basis of the evidence collected so far.

The proposal aims to reinforce the existing legislative framework on firearms, to improve the sharing of information, to address trafficking and reactivation of weapons, to enhance standards for marking in view of better traceability, and, finally, it will consider how to address the issues related to convertibility of weapons or blank-firing weapons (i.e. alarm weapons).