

# Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) Regulation</p> <p>2018/0103(COD)</p>	Procedure completed
<p>Marketing and use of explosives precursors</p> <p>Amending Regulation (EC) No 1907/2006 <a href="#">2003/0256(COD)</a> Repealing Regulation (EU) No 98/2013 <a href="#">2010/0246(COD)</a></p> <p>Subject 3.40.01 Chemical industry, fertilizers, plastics 3.70.13 Dangerous substances, toxic and radioactive wastes (storage, transport) 7.30.12 Control of personal weapons and ammunitions</p>	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Civil Liberties, Justice and Home Affairs	 <a href="#">MAMIKINS Andrejs</a>	04/06/2018
		Shadow rapporteur	
		 <a href="#">ZDECHOVSKÝ Tomáš</a>	
		 <a href="#">STEVENS Helga</a>	
		 <a href="#">GRIESBECK Nathalie</a>	
		 <a href="#">VALERO Bodil</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	 Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
	 Industry, Research and Energy	The committee decided not to give an opinion.	
	 Internal Market and Consumer Protection	The committee decided not to give an opinion.	
	 Legal Affairs	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Employment, Social Policy, Health and Consumer Affairs3699</a>		14/06/2019
European Commission	Commission DG	Commissioner	
	<a href="#">Migration and Home Affairs</a>	AVRAMOPOULOS Dimitris	
European Economic and			

Key events			
17/04/2018	Legislative proposal published	<a href="#">COM(2018)0209</a>	Summary
28/05/2018	Committee referral announced in Parliament, 1st reading		
10/12/2018	Vote in committee, 1st reading		
18/12/2018	Committee report tabled for plenary, 1st reading	<a href="#">A8-0473/2018</a>	Summary
10/01/2019	Committee decision to open interinstitutional negotiations with report adopted in committee		
14/01/2019	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
16/01/2019	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)		
19/02/2019	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE636.075 <a href="#">GEDA/A/(2018)001554</a>	
16/04/2019	Results of vote in Parliament		
16/04/2019	Decision by Parliament, 1st reading	<a href="#">T8-0386/2019</a>	Summary
14/06/2019	Act adopted by Council after Parliament's 1st reading		
20/06/2019	Final act signed		
20/06/2019	End of procedure in Parliament		
11/07/2019	Final act published in Official Journal		

Technical information	
Procedure reference	2018/0103(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Regulation (EC) No 1907/2006 <a href="#">2003/0256(COD)</a> Repealing Regulation (EU) No 98/2013 <a href="#">2010/0246(COD)</a>
Legal basis	Treaty on the Functioning of the EU TFEU 114
Other legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	<a href="#">European Economic and Social Committee</a>
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/8/12826

Documentation gateway					
Legislative proposal		<a href="#">COM(2018)0209</a>	17/04/2018	EC	Summary

Document attached to the procedure		<a href="#">SWD(2018)0104</a>	18/04/2018	EC	
Document attached to the procedure		<a href="#">SWD(2018)0105</a>	18/04/2018	EC	
Committee draft report		<a href="#">PE627.056</a>	19/09/2018	EP	
Amendments tabled in committee		<a href="#">PE629.769</a>	05/11/2018	EP	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A8-0473/2018</a>	18/12/2018	EP	Summary
Coreper letter confirming interinstitutional agreement		<a href="#">GEDA/A/(2018)001554</a>	14/02/2019	CSL	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T8-0386/2019</a>	16/04/2019	EP	Summary
Draft final act		<a href="#">00046/2019/LEX</a>	20/06/2019	CSL	
Commission response to text adopted in plenary		<a href="#">SP(2019)440</a>	08/08/2019	EC	
Follow-up document		<a href="#">SWD(2020)0114</a>	16/06/2020	EC	
Follow-up document		<a href="#">COM(2023)0710</a>	20/11/2023	EC	

#### Additional information

Research document

[Briefing](#)

#### Final act

[Regulation 2019/1148](#)

[OJ L 186 11.07.2019, p. 0001](#) Summary

[Corrigendum to final act 32019R1148R\(03\)](#)

[OJ L 231 06.09.2019, p. 0030](#)

## Marketing and use of explosives precursors

**PURPOSE:** to strengthen and clarify EU provisions on the marketing and use of explosives precursors in order to prevent the illicit manufacture of explosives.

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

**ROLE OF THE EUROPEAN PARLIAMENT:** the European Parliament decides in accordance with the ordinary legislative procedure on an equal footing with the Council.

**BACKGROUND:** [Regulation \(EU\) No 98/2013](#) of the European Parliament and of the Council on explosive precursors aimed to limit the availability of these chemical substances to the general public, and ensure the appropriate reporting of suspicious transactions throughout the supply chain. Whilst the amount of explosives precursors available on the market for public consumption has decreased since the entry into force of the Regulation in 2013, there has been an increase in the number of reported suspicious transactions, disappearances and thefts, and explosives precursors continue to be used for the illicit manufacture of explosives. These "homemade explosives" have been used in the vast majority of terrorist attacks in the EU, including those in Madrid in 2004, London in 2005, Paris in 2015, Brussels in 2016, as well as Manchester and Parsons Green in 2017.

The existing restrictions and controls have proven to be insufficient to prevent the illicit manufacture of homemade explosives. This is due to the facts that: (a) the Regulation allows for different levels of restrictions across Member States; (b) the requirement of registering transactions does not deter or prevent criminals from acquiring explosives precursors; (c) terrorists are developing new recipes and bomb-making techniques, which can circumvent existing restrictions and controls; (d) the Regulation lacks provisions that facilitate compliance and enforcement, which contributes to a number of systemic deficits along the supply chain. This proposal for a regulation aims to address the abovementioned problems by strengthening and clarifying Regulation (EU) No 98/2013.

**IMPACT ASSESSMENT:** various options were analysed and compared. The preferred option is a legislative instrument revising the existing framework in order to increase the effectiveness of the restrictions, enforcement by public authorities, and compliance by the supply chain.

**CONTENT:** this proposal for a regulation aims to strengthen the current rules on marketing and use of explosives precursors. The main points are as follows:

**Restrictions on additional chemicals:** the Commission proposed to add new chemicals to the restricted substances that could be used to make

home-made explosives. These chemicals include sulphuric acid. The proposal also lowers the concentration limit for nitromethane.

Since the substances can be obtained equally in brick-and-mortar shops as well as from online retailers and online marketplaces, the new rules will also apply fully to online sales.

Ending the current registration systems: the proposal puts an end to the registration systems some Member States currently have in place. The distinction between a professional user, to which restricted explosives precursors can be made available and a member of the general public, to which they cannot, will be facilitated by introducing a definition of both concepts.

Licensing: Member States may choose to have a licensing system for the purchase of a limited number of restricted substances which could have a clear legitimate use.

The existing parameters for licensing are tightened. For some restricted explosives precursors above the concentration limit provided for by the Regulation, there exists no legitimate use by members of the general public. Therefore, it is proposed to discontinue licensing for potassium chlorate, potassium perchlorate, sodium chlorate and sodium perchlorate. Licences may only be requested for a limited number of restricted explosives precursors for which there exists substantial legitimate use by members of the general public, i.e. only the already restricted hydrogen peroxide, nitromethane and nitric acid and the newly proposed sulphuric acid. Licences may only be provided for the latter substances in concentrations not exceeding an upper limit set in the proposal. For the newly proposed sulphuric acid, the upper limit is set at 40%.

Before issuing a license to a member of the general public, each Member State will have to verify the legitimacy of such a request and run a careful security screening, including a criminal record check.

Labelling: the proposal makes clear that every step in the supply chain will bear the burden of informing the next that the product supplied is subject to the restrictions of this Regulation. This can be done through a label, but also through the use of existing tools such as the safety data sheet under Regulation (EC) No 1907/2006.

Quicker and better information sharing: the proposal introduces an obligation for businesses to report a suspicious transaction to the responsible authorities within 24 hours. The new measures also provide for greater information sharing between companies, including online businesses, and awareness raising along the whole supply chain.

## Marketing and use of explosives precursors

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The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Andrejs MAMIKINS (S&D, LV) on the proposal for a regulation of the European Parliament and of the Council on the marketing and use of explosives precursors, amending Annex XVII to Regulation (EC) No 1907/2006 and repealing Regulation (EU) No 98/2013 on the marketing and use of explosives precursors.

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission proposal as follows.

### Licences

In 2015 and 2016, homemade explosives were used in approximately 40% of terrorist attacks committed in the European Union. This demonstrates the need to close existing gaps in order to reduce the possibilities of accessing highly dangerous substances.

Proposed amendments aim to tighten the conditions for granting licences for the purchase and use of explosives precursors. Members stressed that the competent authority shall inform licence holders of any suspension or revocation of their licences in due time. The mutual recognition of the licences issued by other Member States shall be done bilaterally by means of agreements among the competent authorities.

### Making available, introduction, possession and use

Restricted explosives precursors shall not be made available to, or introduced, possessed or used by members of the general public. The restrictions shall not apply to professionals who need to use these chemicals in connection to their trade, craft or profession.

### Informing the supply chain

An online marketplace that acts as an intermediary shall take measures to ensure that its users, when making available regulated explosives precursors through its services, are informed of their obligations pursuant to this Regulation. Any personal use of the regulated explosives precursors by economic operators or their staff shall be prohibited.

For the purpose of verifying that a new customer is a professional user or an economic operator, an economic operator who makes available a restricted explosives precursor to a professional user or another economic operator shall for each transaction request the trade, business, craft or profession together with the company name and address of the new customer.

### Verification upon sale

For the purpose of verifying the intended use of the restricted explosives precursor, the economic operator shall assess whether the intended use is consistent with the trade, business, craft or profession of the prospective customer. The transaction may be refused if there are reasonable grounds for doubting the customer's stated intended use of the restricted explosives precursor. The economic operator shall report the suspicious or attempted transaction.

### Reporting of suspicious transactions, disappearances and thefts

The reporting obligations shall cover the products that contain regulated explosives precursors which fulfil all of the following criteria: (i) the precursor is listed as an ingredient on the label or in the safety datasheet; (ii) the precursor concentration is greater than 1% (or 3% N by weight for nitrogenous fertilisers); (iii) the extraction of the precursor is possible without complication.

Economic operators and online marketplaces acting as an intermediary shall report such suspicious transactions

Economic operators and online marketplaces that act as an intermediary may refuse the suspicious transaction. They shall report the suspicious transaction or attempted transaction within 24 hours, including, if possible, the identity of the customer and all the relevant details

which have led them to consider a transaction suspicious, to the national contact point of the Member State where the suspicious transaction was concluded or attempted.

#### Training and awareness-raising

Member States shall organise regular exchanges between law enforcement agencies, national supervisory authorities, economic operators, online market places that act as an intermediary and representatives of the professional sectors that use regulated explosives precursors. Economic operators shall be responsible for providing information to their staff on the manner in which explosives precursors are to be made available under this Regulation and for raising staff awareness in this regard.

Member States may request additional specific trainings from the European Union Agency for Law Enforcement Training (CEPOL).

#### Safeguard clause

The national contact point of the Member State restricting or prohibiting substances shall inform economic operators and online marketplaces that act as intermediary in the territory of that Member State of such restrictions or prohibitions.

## Marketing and use of explosives precursors

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The European Parliament adopted by 616 votes to 7 with 21 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on the marketing and use of explosives precursors, amending Annex XVII to Regulation (EC) No 1907/2006 and repealing Regulation (EU) No 98/2013 on the marketing and use of explosives precursors.

Parliament's position adopted in first reading following the ordinary legislative procedure amended the Commission proposal as follows:

#### Purpose

The Regulation establishes harmonised rules concerning the making available, introduction, possession and use of substances or mixtures that could be misused for the illicit manufacture of explosives. The aim is to limit the availability of those substances or mixtures to members of the general public, and to ensure the appropriate reporting of suspicious transactions throughout the supply chain.

#### Making available, introduction, possession and use

Restricted explosives precursors shall not be made available to, or introduced, possessed or used by members of the general public.

This restriction also applies to mixtures containing chlorates or perchlorates listed in Annex I (restricted explosive precursors), where the overall concentration of those substances in the mixture exceeds certain limit values expressed as a percentage by weight (w/w).

#### Licences

Each Member State that issues licences to members of the general public who have a legitimate interest in acquiring, introducing, possessing or using restricted explosives precursors shall lay down rules for issuing licences. When considering whether to issue a licence, the competent authority of the Member State shall take into account, in particular:

- the demonstrable need for the restricted explosives precursor and the legitimacy of its intended use;
- the background of the applicant, including information on previous criminal convictions of the applicant anywhere within the Union. The competent authority established by Council Framework Decision 2009/315/JHA shall provide replies to requests for such information within 10 working days from the date the request was received.

#### Informing the supply chain

An economic operator who makes available a regulated explosives precursor to another economic operator shall inform that economic operator that the acquisition, introduction, possession or use of that regulated explosives precursor by members of the general public is subject to reporting obligations regarding suspicious transactions, disappearances and thefts.

#### Verification upon sale

The economic operator who makes available a restricted explosives precursor to a professional user or another economic operator shall for each transaction request the following information:

- proof of identity of the individual entitled to represent the prospective customer;
- the trade, business, or profession together with the company name, address and the value added tax identification number or any other relevant company registration number, if any, of the prospective customer;
- the intended use of the restricted explosives precursors by the prospective customer.

Economic operators shall retain this information for 18 months from the date of transaction.

The information must not be requested if such verification for that prospective customer has already occurred within a period of one year prior to the date of that transaction and the transaction does not significantly deviate from previous transactions.

For the purpose of verifying the intended use of the restricted explosives precursor, the economic operator shall assess whether the intended use is consistent with the trade, business or profession of the prospective customer. The economic operator may refuse the transaction if it has reasonable grounds for doubting the legitimacy of the intended use of the restricted explosives precursor. The economic operator shall report such transactions or such attempted transactions.

#### Reporting of suspicious transactions

The amended text requires economic operators and online marketplaces to report suspicious transactions.

Each Member State shall set up one or more national contact points, available 24 hours a day, seven days a week, with a clearly identified

telephone number and e-mail address, web form or any other effective tool for the reporting of suspicious transactions and significant disappearances and thefts.

Economic operators and online marketplaces may refuse the suspicious transaction and must report it within 24 hours of considering that it is suspicious.

Significant disappearances and thefts of regulated explosives precursors must be reported within 24 hours of detection to the national contact point of the Member State where the disappearance or theft took place.

Training and awareness-raising

Member States shall organise regular exchanges between law enforcement authorities, national supervisory authorities, economic operators, online marketplaces and representatives of the sectors that use regulated explosives precursors. Economic operators shall be responsible for providing information to their personnel on the manner in which explosives precursors are to be made available and for raising personnel awareness in this regard.

Member States may request additional specific trainings from the European Union Agency for Law Enforcement Training (CEPOL).

A Member State that restricts or prohibits substances shall raise awareness of such restrictions or prohibitions among economic operators and online marketplaces on its territory.

## Marketing and use of explosives precursors

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PURPOSE: to limit public access to explosive precursors.

LEGISLATIVE ACT: Regulation (EU) 2019/1148 of the European Parliament and of the Council on the marketing and use of explosives precursors, amending Regulation (EC) No 1907/2006 and repealing Regulation (EU) No 98/2013.

CONTENT: this Regulation establishes harmonised rules concerning the making available, introduction, possession and use of substances or mixtures that could be misused for the illicit manufacture of explosives, with a view to limiting the availability of those substances or mixtures to members of the general public, and with a view to ensuring the appropriate reporting of suspicious transactions throughout the supply chain.

The objective is to prevent the illicit manufacture of explosives, taking into account the changing threat that terrorism and other serious criminal activities pose to public security.

Availability, introduction, possession and use

Restricted explosives precursors shall not be made available to, or introduced, possessed or used by members of the general public. The restriction also applies to mixtures containing chlorates or perchlorates listed in Annex I (restricted explosive precursors), where the overall concentration of those substances in the mixture exceeds certain limit values expressed as a percentage by weight (w/w).

Licenses

Subject to the conditions laid down in the Regulation, each Member State which issues licences to members of the general public who have a legitimate interest in acquiring, introducing, possessing or using restricted explosives precursors shall lay down rules for issuing licences.

When considering whether to issue a licence, the competent authority of the Member State shall take into account all relevant circumstances, in particular:

- the demonstrable need for the restricted explosives precursor and the legitimacy of its intended use;
- the availability of the restricted explosives precursor at lower concentrations or alternative substances with a similar effect;
- the background of the applicant, including information on previous criminal convictions of the applicant anywhere within the Union.

A Member State may recognise licences issued by other Member States.

Reporting of suspicious transactions, disappearances and thefts

The Regulation requires economic operators but also online marketplaces to report suspicious transactions.

Each Member State shall set up one or more national contact points with a clearly identified telephone number and e-mail address, web form or any other effective tool for the reporting of suspicious transactions and significant disappearances and thefts. The national contact points shall be available 24 hours a day, seven days a week.

Economic operators and online marketplaces may refuse the suspicious transaction. They shall report the suspicious transaction or attempted suspicious transaction within 24 hours of considering that it is suspicious.

Informing the supply chain

The Regulation obliges the economic operators who makes available a regulated explosives precursor to another economic operator to inform that economic operator that the acquisition, introduction, possession or use of that regulated explosives precursor by members of the general public is subject to reporting obligations regarding suspicious transactions, disappearances and thefts.

Verification upon sale

The economic operator who makes available a restricted explosives precursor to a professional user or another economic operator shall for each transaction request the following information:

- proof of identity of the individual entitled to represent the prospective customer;
- the trade, business, or profession together with the company name, address and the value added tax identification number or any other relevant company registration number, if any, of the prospective customer;

- the intended use of the restricted explosives precursors by the prospective customer.

Economic operators shall retain this information for 18 months from the date of transaction.

The information must not be requested if such verification for that prospective customer has already occurred within a period of one year prior to the date of that transaction and the transaction does not significantly deviate from previous transactions.

For the purpose of verifying the intended use of the restricted explosives precursor, the economic operator shall assess whether the intended use is consistent with the trade, business or profession of the prospective customer. The economic operator may refuse the transaction if it has reasonable grounds for doubting the legitimacy of the intended use of the restricted explosives precursor. The economic operator shall report such transactions or such attempted transactions.

#### Training and awareness-raising

The new Regulation imposes a number of training and awareness obligations on (i) economic operators who manufacture or sell explosive precursors; and (ii) national control authorities.

Member States shall organise, at least once a year, awareness-raising actions adapted to the specificities of each of the different sectors using regulated explosives precursors. Economic operators shall be responsible for providing information to their personnel on the manner in which explosives precursors are to be made available and for raising personnel awareness in this regard.

Member States may request additional specific training from the European Union Police Training Agency (CEPOL).

The Commission shall provide regularly updated guidelines to assist actors in the chemical supply chain and the competent authorities, and to facilitate cooperation between the competent authorities and economic operators.

ENTRY INTO FORCE: 31.7.2019.

APPLICATION: from 1.2.2021.