

Marketing and use of explosives precursors

2018/0103(COD) - 17/04/2018 - Legislative proposal

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.