

EU Firearms Directive: report and Commission's proposal to amend the Directive

The Commission has released a report¹ on the Firearms Directive 91/477/EC implementation as required by Article 17 of the Firearms Directive.

The report, which takes into account the recent terrorist attacks that took place in 2015 on the EU territory, focuses on **weaknesses of the EU system** regulating the acquisition, possession and commercial exchange within the EU of civil firearms and **proposes some initiatives**.

Despite the contribution of the Directive to prevent, or at least minimise, market **distortions**, **differences persist** in the following fields:

- Application of provisions related to the EFP², such as the **number of documents** required;
- Application of **categories**³, in particular with categories C and D creating confusion in the document required when buying a firearm in different countries, impeding the firearms movement across Europe and generating costs;
- Marking standards as they limit the **ability to trace firearms** or to fight illicit trafficking;
- **Deactivation** techniques and standards;
- **Categorisation** of weapons in **national legislation**, which causes problems in traceability and law enforcement;
- **Interpretation of key terms** included in the Directive (essential components, brokers, alarms weapons and antique weapons);
- **Interpretation of the UNFP**, in particular as regard to interpretation of “parts and components”. In fact, amendments introduced by Directive 2008/51/EC have only partially aligned the terminology of the Directive to the UNFP. While the Directive introduced a distinction between “essential parts” and “components”, the United Nations’ text only refers to “parts and components”.

As regard main security risks highlighted, the report identifies in a decreasing order:

- **Conversion** of alarm weapons;
- Conversion of semi-automatic weapons;
- **Reactivation** of deactivated firearms;
- **Erasing** of marking;

¹ Report from the Commission to the European Parliament and the Council on the evaluation of Council Directive 91/477/EC of 18 June 1991, as amended by Directive 2008/51/EC of 21 May 2008, on control of the acquisition and possession of weapons, Brussels, 18 November 2015, COM(2015) 751 final.

² European Firearms Pass is the main document needed by hunters and marksmen within the EU.

With the introduction of the EFP, hunters with firearms of category C and D and marksmen with firearms of category B, C and D can travel to another MS without prior authorisation by the MS of destination.

³ The scope of the Directive is described in its Annex I, where the categories of firearms corresponding to different regimes of applications are described as follows: Category A, consisting of prohibited firearms – fully automatic weapons and 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, Category D, for other firearms – which mainly applies to single-shot long firearms with smooth-bore barrels.

- **Illegal** use of inherited arms;
- Future **technological developments** such as new technologies (including 3D printing) and new sales channels (e.g. internet).

On these bases, the Commission makes some recommendations, some of legislative nature and some other of non-legislative nature.

Among the **top priorities, requiring legislative initiatives**, there is:

- The need to define **common criteria on convertibility** of alarm weapons, since the conversion of originally blank firing weapons (alarm and signal weapons) to fire live ammunition emerged as a serious issue in a high number of Member States;
- **Harmonising standards and rules on deactivation**, since the lack of common guidelines on deactivation standards and techniques is at the origin of the circulation of deactivated firearms with different levels of security that could be potentially reactivated;
- **Harmonising rules on marking** given the failure of some Member States to treat essential components as firearms and the obligation of only marking “an essential component” generates differences creating difficulties for law enforcement authorities when tracing firearms in cross-border criminal offences.

Among the less “urgent” measures to take and belonging to the non-legislative measures category, there is:

- **Transparency and accessibility of national rules** implementing the Directive, especially considering the information costs that operators have to sustain;
- **Common approach to the classification of hunting and sporting firearms** and clarifying the rules of the EFP, since different classification of firearms commonly used for these activities across MS (i.e. firearms commonly used for sport shooting may be forbidden in some MS);
- **Strengthening the knowledge on new technologies** (e.g. online market for firearms and the impact of new technologies such as the 3D printer);
- **Strengthening data collection activities** in order to create a sound information base on civilian firearms and related criminal offences. In fact, there is a clear lack of data availability related to security issues (e.g. data on crimes not disaggregated per category of firearms, limited distinction between legal and illegal firearms used in crimes, limited data on the production of civil firearms per MS, etc.) as well as poor quality of data available in relation to the civilian firearms market structure (i.e. production, import and export of civilian firearms, employees and turnover of companies operating in the sector).

In line with the priorities and weakness highlighted in the report, the **Commission published, jointly with the report, a proposal for a new Directive⁴**, amending the existing Firearms Directive 91/477/EEC as amended by Directive 2008/51/EC.

The objective is **to strengthen the legal framework in the field of possession and trade** in firearms across the EU, especially following terrorist attacks in August and November 2015 on the EU territory. The principle at the basis is to overcome, as much as possible, Member

⁴ Proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons, Brussels, 18 November 2015, COM(2015) 750 final.

States' differences in national rules on the possession and trade in firearms and to improve the cross-border exchange of information.

More specifically, the new proposal aims to:

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

More into details, the Commission's proposal broadens the scope by specifying the **definition** of "**broker**" and "**dealer**", subject to a control regime (maintenance of a register, registration and prior licence or authorisation) as well as the definition of "**essential components**".

Marking and **registration** of each firearm is another key element of the Directive, requiring a unique marking including the name of the manufacturer, the country or place of manufacture, the serial number and the year of manufacture. Marking requirements also extend to each elementary package of complete ammunitions.

Requirements of **end-user assessment** are also established (at least 18 years of age and not likely to be a danger to public order and safety).

The Directive requires Member States to establish **verification mechanism for the deactivation** of firearms, by the competent authority, which shall provide for the issuance of a certificate or record attesting to the deactivation of the firearm or the apposition of a clear mark.

Member States shall take measures to ensure that alarm and signal weapons as well as salute and acoustic weapons⁵ (now defined in Article 1) cannot be converted into firearms.

As regard to **authorisation**, the Directive establishes that the limits shall not exceed five years, although it can be renewed after assessment of some conditions.

A mechanism of exchange of information, between competent authorities, shall be established by the Commission on the authorisations granted for the transfers of firearms to another Member State or refusals.

The power to adopt **delegated acts** is conferred to the Commission, which shall submit, every five years a report to the Council and the European Parliament on the application of the Directive.

The Directive does not apply to the acquisition or possession of weapons and ammunitions by the **armed forces**, the police, the public authorities nor to commercial transfers of weapons and ammunitions of war.

Finally, Annex I to Directive 91/477/EEC is amended.

⁵ "Salute and acoustic weapons" means firearms specifically converted for the sole use of firing blanks, for use in theatre performances, photographic sessions, movies and television recordings.