



European Economic and Social Committee

INT/777
**Control of the acquisition
and possession of weapons**

Brussels, 27 April 2016

OPINION

of the
European Economic and Social Committee
on the

**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**
COM(2015) 750 final - 2015/0269 (COD)

Rapporteur: **Paulo Barros Vale**

On 14 December 2015, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union, on the

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

COM(2015) 750 final – 2015/0269 (COD).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 13 April 2016.

At its 516th plenary session, held on 27 and 28 April 2016 (meeting of 27 April), the European Economic and Social Committee adopted the following opinion by 176 votes to 8 with 20 abstentions.

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1. **Conclusions and recommendations**

- 1.1 While weapons-related issues are always controversial, the recent tragic events in Europe have added even more heat to the debate. Nevertheless, the assessment of the revision of the directive must necessarily be more dispassionate and objective, analysing security and market issues in a balanced fashion and leaving the crucial question of fighting terrorism and organised crime to other discussions more suited to the gravity of these issues.
- 1.2 The *Study on Firearms*¹ drawn up by the United Nations Office on Drugs and Crime estimates that there were some 875 million firearms in existence in 2007. Only 3% of these were held by law enforcement services and 23% by the military. In an industry of this size, it is up to the legislator to identify and impose measures which are capable of mitigating the latent hazard inherent in the possession of such vast numbers of weapons.
- 1.3 While supporting the adoption of this directive, which clarifies definitions and introduces new requirements and more consistent rules on marking and destroying weapons, the EESC would also advocate measures that it believes would help increase public safety.

¹ United Nations Office on Drugs and Crime, *Study on Firearms 2015 – A study on the transnational nature of and routes and modus operandi used in trafficking in firearms*.

- 1.4 In contrast with the situation in other sectors where the European Union has issued a great deal of legislation, this has not been the case for the arms industry, where the rules have fallen short of what could have been achieved in terms of security and the tracing of arms and individuals involved in criminal acts. We must therefore be firm on the objectives to be achieved in an area as sensitive as security.
- 1.5 Since not only weapons traceability but also ammunition traceability is important, the EESC believes that in the medium/long term, thought should be given to encouraging the industry to start placing indelible marks on bullets, somewhere the marks cannot be destroyed upon use. If technically possible, such data and the other data on weapons, to be made available on interoperable databases by the authorities, would contribute greatly to improving the efficiency of investigations. These databases must not be restricted to forming national registers, but should rather operate at European level, being built up and accessed by the authorities of each Member State.
- 1.6 The EESC argues that Europe could look into the possibility of following the example of the Australian and UK buyback programmes, which would take several thousand weapons out of circulation. While there may be no proven direct link between the number of weapons in circulation and the number of offences committed, it is statistically probable that fewer crimes and accidents would occur, and even that fewer weapons would fall into the hands of criminals.
- 1.7 The technological development of 3D printing constitutes a danger since it can be used to manufacture weapons that are just as lethal as those made by conventional methods, but are impossible to control or track. Furthermore, these weapons are mostly made of materials that traditional security systems cannot detect. This issue urgently needs to be put on national security agendas so that concerted preventive measures can be taken against the uncontrolled proliferation of lethal weapons.

2. **Background**

- 2.1 Amidst acute security concerns, the Commission has published a proposal to amend Council Directive 91/477/EEC², as amended by Directive 2008/51/EC³, on control of the acquisition and possession of weapons.
- 2.2 This review is being undertaken in the context of the European Agenda on Security, adopted on 28 April 2015, which seeks to ensure an effective and coordinated response at European level to security threats. The European Agenda on Security has identified differences between countries' legislation as being an obstacle to effective controls and cooperation between

² Council Directive 91/477/EEC, [OJ L 256, 13.9.1991, p. 51](#); EESC opinion: [OJ C 35, 8.2.1988, p. 25](#).

³ Council Directive 2008/51/EC, [OJ L 179, 8.7.2008, pp. 5](#); EESC opinion: [OJ C 318, 23.12.2006, p. 83](#).

national police forces, and has called for a review of legislation on firearms and of the rules on deactivation.

- 2.3 The objective of the directive is to guarantee public safety and facilitate the functioning of the internal market in firearms by establishing the rules to adopt for all stages of a firearm's life cycle, from production to destruction.
- 2.4 The directive establishes the minimum requirements that each Member State should impose as regards the acquisition, possession and transfer of the different categories of firearms, including those used for hunting and shooting sports.
- 2.5 As a basis for the review of the current legal framework, three evaluations were carried out on the legislation currently in force, which identified a need to adopt EU-wide minimum rules on illicit firearms trafficking and to revise the directive in force in order to:
- harmonise the rules for the marking of firearms;
 - adopt common standards and procedures and introduce registration requirements for deactivated firearms;
 - establish procedures for the convertibility of alarm/signal weapons and replicas;
 - promote the exchange of knowledge between Member States and develop and maintain databases on the manufacture, possession and deactivation of weapons; and
 - define a common approach to the classification of hunting and sporting firearms.
- 2.6 The Commission took into account the views of stakeholders, namely the representatives of associations of European manufacturers of civilian firearms and ammunition, civilian firearms retailers, hunters, collectors, NGOs, research centres, etc. Member States and NGOs agreed that the proposed directive would help to prevent the diversion of firearms to the illegal market. However, private sector representatives were concerned by amendments to the categories of firearms and the impact thereof on small and medium-sized firms.
- 2.7 The stakeholders consulted by the Commission believed that the reactivation of deactivated weapons was a relevant source of weapons for criminal use and considered the harmonisation of deactivation rules to be a priority in order to fight this practice.
- 2.8 The stakeholders consulted agreed on the need for the exchange of information between Member States, for the harmonisation of definitions and for the establishment of minimum standards for deactivation guidelines.

3. **General comments**

Recent tragic events have precipitated the debate on the sale and use of weapons. Although public safety, which is increasingly under threat from terrorism, cannot be confused with the possession of weapons, and there is a pressing need to take decisive action to counter the ease

with which people can get hold of firearms, which continue to fall into the hands of radical groups, criminal organisations and disturbed individuals whose motives are incomprehensible, who then use these firearms to perpetrate barbaric crimes. Neither can ordinary crime, suicides and accidents involving firearms be overlooked.

- 3.1 The EESC welcomes the clarifications currently being proposed since they make a significant improvement to the directive being amended. These proposals do not seek to ban firearms but to harmonise the rules on the acquisition and possession of weapons throughout their life cycle in order to regulate the market and ensure safety.

Nevertheless, after consulting stakeholders such as police forces, industry, the trade, users, collectors and NGOs concerned with public safety, the EESC believes that, in view of the ongoing security concerns, legislation on this issue needs to be more ambitious. The Commission should not simply draft legislation as an immediate response to recent acts of terrorism, but when doing so should also seek to resolve safety issues relating to legal firearms.

- 3.2 Various studies have been carried out on arms control. While some of these indicate that restrictions on weapons reduce violence⁴, accidents⁵ and suicides⁶, others assert that allowing citizens without a criminal record or mental health problems to keep weapons reduces violent crime and does not lead to a significant increase in suicides or accidents⁷.

- 3.2.1 Australia provides an excellent example of weapons control. Following an incident where a man entered a cafe and killed 35 people and wounded 23 others with two weapons, in 1997 Australia embarked upon one of the most substantial overhauls on record of its laws on the use and possession of weapons. This led to a visible reduction in firearm-related deaths. It banned certain types of weapons, introduced a requirement to provide a genuine reason for possessing a weapon (which could not be purely for self-defence) and financed a national buyback programme. This initiative led to the surrender of 700 000 weapons and, in conjunction with the new restrictions, to a drastic fall in firearm-related homicides⁸.

⁴ Hepburn, Lisa; Hemenway, David. Firearm availability and homicide: A review of the literature. *Aggression and Violent Behavior: A Review Journal*, 2004; 9:417-40, quoted by Harvard T.H. Chan School of Public Health: <http://www.hsph.harvard.edu/hicrc/firearms-research/guns-and-death/>

⁵ Miller, Matthew; Azrael, Deborah; Hemenway, David. Firearm availability and unintentional firearm deaths. *Accident Analysis and Prevention*. 2001; 33:477-84, quoted by Harvard T.H. Chan School of Public Health: <http://www.hsph.harvard.edu/hicrc/firearms-research/gun-threats-and-self-defense-gun-use/>

⁶ Miller, Matthew; Hemenway, David. Gun prevalence and the risk of suicide: A review. *Harvard Health Policy Review*. 2001; 2:29-37, quoted by Harvard T.H. Chan School of Public Health: <http://www.hsph.harvard.edu/hicrc/firearms-research/gun-ownership-and-use/>

⁷ John R. Lott, David B. Mustand. *Crime, Deterrence, and Right-to-Carry Concealed Handguns* University of Chicago Law School, May 1998.

⁸ Alpers, Philip, Amélie Rossetti and Marcus Wilson, 2016, *Guns in Australia: Total Number of Gun Deaths*, Sydney School of Public Health, The University of Sydney. GunPolicy.org, 7 March. Accessed 10 March 2016, at: http://www.gunpolicy.org/firearms/compareyears/10/total_number_of_gun_deaths

- 3.2.2 The reasoning behind the Australian buyback programme was that the large-scale availability of weapons made it easier for people to act on homicidal impulses and commit mass murder.
- 3.2.3 Like Australia, following random shootings which resulted in 15 fatalities and a further 15 wounded, the United Kingdom also banned the use of certain types of weapons, introduced mandatory registration for owners and funded a buyback programme. This did not have the same impact on the number of firearm-related deaths as in Australia⁹.
- 3.2.4 The most recent major study on arms control, published in February 2016, examined 130 other studies carried out in ten different countries between 1950 and 2014¹⁰. The authors believe that although the data does not demonstrate that restrictive laws reduce violence, it does suggest that in some countries there is a link between the implementation of laws restricting access to various types of weapons and a reduction in firearm-related fatalities. The introduction of laws that restrict the conditions for acquiring firearms (e.g., background checks) or accessing weapons (e.g., storage) is also associated with lower rates of intimate partner homicides and accidental child deaths, respectively.
- 3.3 The EESC believes that these examples and studies should be reflected in strict rules for obtaining a licence to use and carry a weapon, and for acquiring arms and ammunition, in a ban on certain types of weapons, as well as in their deactivation, and even in programmes set up by Member States to buy back weapons in order to destroy them.

4. **Specific comments**

- 4.1 This initiative shows due regard for the principles of subsidiarity and proportionality. A directive is the appropriate form as it is doubtful that the Member States are ready to accept a regulation.
- 4.2 The EESC welcomes this directive's amendments to a number of articles in the previous directive; they lend clarity and introduce new requirements that significantly improve the previous rules.
- 4.3 The EESC supports the introduction of mandatory medical tests, that meet minimum European quality requirements, to assess physical and mental health for issuing or renewing licences to use and carry a weapon - a practice which many Member States have already adopted. However, it would point out that the directive could also set requirements regarding the frequency of training in the handling of firearms and on the safe storage (in particular with

⁹ Alpers, Philip, Marcus Wilson, Amélie Rossetti and Daniel Salinas, 2016, *Guns in the United Kingdom: Total Number of Gun Deaths*, Sydney School of Public Health, The University of Sydney. GunPolicy.org, 23 February. Accessed 10 March 2016, at: http://www.gunpolicy.org/firearms/compareyears/192/total_number_of_gun_deaths

¹⁰ Julian Santaella-Tenorio, Magdalena Cerdá, Andrés Villaveces and Sandro Galea, *What Do We Know About the Association Between Firearm Legislation and Firearm-Related Injuries?* Published by Oxford University Press on behalf of the Johns Hopkins Bloomberg School of Public Health.

gun cabinets as is already mandatory in some Member States) and safe transportation of weapons and their components.

- 4.4 The European Union has been able to issue a great deal of legislation in many areas. A good example of this is the automotive industry, which was obliged to meet safety requirements (safety for occupants and the environment) by investing heavily in research and development. The concept of marking weapons and components is also being extended. The EESC suggests going somewhat further in the medium/long term with respect to marking bullets and assessing the possibility of encouraging the industry to place an indelible mark somewhere where it cannot be destroyed upon use, such as inside the ammunition, in order to ensure full traceability. Since it is normally bullets and not weapons that are left behind at crime scenes, marking of this type could be a valuable source of information in police investigations.
- 4.5 With regard to databases on firearms, the EESC supports the new wording, which extends the scope of records on firearms to include the destruction of these arms. This contributes added value and is an important tool for control and investigation purposes. The Commission should provide the authorities with support to ensure real-time access to these registers in all Member States, making it easier to gather evidence and enabling the quick, efficient exchange of information in order to identify and locate firearms.
- 4.6 Semi-automatic firearms for civilian use which "resemble weapons with automatic mechanisms" are also classified as prohibited. The term "resemble" is not sufficiently objective since clear criteria must first be established as to what types of "resemblance" would warrant these weapons being classified as prohibited firearms.
- 4.7 Alarm and signal weapons, salute and acoustic weapons as well as replicas are now to be classified under Category C as subject to declaration. Although this is already the case under the laws of some countries, the EESC is not sure that it is appropriate since, in addition to the fact that the UN Protocol does not classify them as firearms, in those countries whose legislation does not yet make it mandatory to declare them, this will entail significant administrative costs for a type of weapon that does not seem to present a particularly significant public safety risk.
- 4.8 The public safety risks presented by these and other weapons, such as air guns, should be assessed in a study on the hazards they entail and the possibilities of converting them into more lethal weapons. This study could serve as a basis for new technical and legal rules on the safety, transformation, conversion, deactivation and destruction of weapons.
- 4.9 In a digital society it is important to consider the danger presented by online weapons and ammunition trading. Facebook and Instagram have announced restrictions on the sale of weapons on their social networks, banning their users from advertising or dealing in weapons through posts, discussion groups or private messages. The EESC believes that, despite provisions that only dealers and brokers will be allowed to trade in certain weapons and

ammunition online, only face-to-face transactions should be authorised in order to ensure strict control by the relevant authorities.

- 4.10 Technological innovation has brought with it the advent of 3D printers. Weapons have not been excluded from this technology and instructions and programmes for printing lethal weapons soon appeared on the internet. In the absence to date of legislation to regulate the printing of weapons, this technology constitutes a real threat which has yet to be given the importance it deserves. Nations must come together to discuss this issue, monitor the network and even control the acquisition of materials used to produce these types of weapons, and give serious thought to banning their production.
- 4.11 Under the directive, the Member States would be able to authorise bodies concerned with the cultural and historical aspects of weapons, and recognised as such, to keep in their possession category A firearms acquired before the date of entry into force of the directive, provided they have been deactivated. The EESC believes that special arrangements for applying the directive should be envisaged in the case of collections held in museums whose activities are recognised as being of importance by the Member States, provided that safety and public order are not jeopardised. Such arrangements would impose strict rules regarding the display, registration, storage and handling of weapons, but would prevent the destruction of Category A firearms of significant historical value.

Brussels, 27 April 2016

The President
of the
European Economic and Social Committee

Georges Dassis
