



Evaluation of the Firearms Directive

Final report

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List of abbreviations

CIP	Permanent International Commission for Firearms Testing
EFP	European Firearms Pass
EU	European Union
LFS	Labour Force Survey
MS	Member State
NA	Not Applicable
NACE	Nomenclature statistique des activités économiques dans la Communauté européenne (Statistical Classification of Economic Activities in the European Community)
NGO(s)	Non-governmental Organisation(s)
OCG	Organised Crime Group
RCA	Revealed Comparative Advantage
SALW	Small Arms and Light Weapons
SBS	Structural Business Statistics
SIS	Schengen Information System
SME(s)	Small and Medium Enterprise(s)
ToR	Terms of Reference
UN	United Nations
UNODC	United Nations Office on Drugs and Crime
UNFP	United Nations Firearms Protocol
WFSA	World Forum on Shooting Activities

EU Member States

AT	Austria
BE	Belgium
BG	Bulgaria
CY	Cyprus
CZ	Czech Republic
DE	Germany
DK	Denmark
EE	Estonia
EL	Greece
ES	Spain
FI	Finland
FR	France
HR	Croatia
HU	Hungary
IE	Ireland
IT	Italy
LT	Lithuania
LU	Luxembourg
LV	Latvia
MT	Malta
NL	Netherlands
PL	Poland
PT	Portugal
RO	Romania
SE	Sweden
SI	Slovenia
SK	Slovakia
UK	United Kingdom

1 Introduction to the study and the Firearms Directive

1.1 *Objectives and scope of the study*

This report presents the results of the evaluation study commissioned by Directorate General Enterprise and Industry with the aim of assessing the implementation of the Firearms Directive¹ in all MS.

The evaluation aims at providing the necessary input for the report that the European Commission shall, by the end of July 2015, "submit [...] to the European Parliament and the Council on the situation resulting from the application of this Directive, accompanied, if appropriate, by amending proposals".²

This evaluation is also included in the Commission's Regulatory Fitness and Performance Programme (REFIT), which aims at reviewing the entire stock of EU legislation to identify burdens, inconsistencies, gaps, overlaps and obsolete measures and to make, where necessary, proposals to follow-up on the findings of the review (COM(2013)685 and Annex).

The evaluation study addresses five evaluation criteria identified in the Terms of Reference (ToR) that are:

1. Consistency of the implementation of the Directive's provisions, of the interpretation of the key terms and an overall coherence of the Directive with other pieces of legislation dealing with weapons;³
2. Relevance of such provisions with respect to the existing needs in the area of internal market functioning and EU citizens' security;⁴
3. Effectiveness in terms of the extent to which provisions have contributed to the achievement of set targets, i.e. their actual impacts;⁵
4. Efficiency of procedures and obligations introduced by the Directive, namely if results have been achieved at reasonable costs;⁶
5. Added value of EU intervention as opposed to national legislation and actions.⁷

¹ Directive 91/477/EEC as amended by Directive 2008/51/EC.

² Art. 17 of the Firearms Directive.

³ Is the scope of the Directive clear, or are there diverging interpretations within MS? To what extent have the definitions of key terms of the Firearms Directive (such as dealer, broker, authorisation, notification, licence) been introduced in national transposition laws and measures? To what extent do MS apply diverging definitions which might affect the objectives of the Directive? To what extent is the legislative measure coherent with other pieces of legislation dealing with weapons?

⁴ To what extent do the objectives and scope of the Directive correspond to the needs and risks defined? To what extent did the legislative measures contribute to the objectives?

⁵ To what extent has the Directive achieved its aim with regard to the security and protection of health of persons? To what extent has the Directive contributed to an efficiently operating internal market for firearms?

⁶ Are the results achieved at a reasonable cost? In particular is the administrative burden created by the implementation of the Directive's concepts and procedures considered proportionate?

⁷ To what extent has the Directive had an added value? To what extent could the EU added-value be improved? To what extent has the EU legislation contributed to reach the objectives, as opposed to national legislation?

The criteria listed above have been assessed with respect to the two overall objectives of the Directive: well-functioning of the internal market and high level of security.

The scope of the evaluation covers:

- all the Directive's provisions and all firearms subject to the Directive as set out in Annex I;
- all EU28 MS and their national implementing legislation and procedures;
- the period starting 1991 (date of entry into force of the Directive 91/477/EC) to date. However, in the paragraph relating to the firearms market, the period covered goes from 2004/2005 to 2013 (i.e. after the 2004 enlargement) as including data for previous years would have limited the nature of the conclusions to be drawn. Furthermore, choosing 2004/2005 as a starting period guarantees consistency across the analysis as data from this time were available for the majority of dimensions analysed.

Moreover the present evaluation takes into account a number of studies undertaken by the European Commission on the Firearms Directive, including and enriching their conclusions. Among the most relevant, it considers the following (please refer to Annex I for a complete list):

- The work on the common deactivation guidelines (expected to be approved in the next months), and the investigation of the feasibility of an EU marking standard for all weapons;⁸
- The two impact assessments launched by DG HOME on *i)* deactivation, marking of firearms, replicas and alarm weapons⁹ and *ii)* criminal sanctions;¹⁰
- COM(2012)415 - Possible advantages and disadvantages of reducing the classification to two categories of firearms (prohibited and authorised) with a view to improving the functioning of the internal market for the products in question through simplification;
- COM(2010)404 – The placing on the market of replica firearms;
- COM(2000)837 – The implementation of Council Directive 91/477/EEC, of 18 June 1991, on control of the acquisition and possession of weapons.

1.2 The Firearms Directive: policy context and intervention logic

This section presents an overview on the Firearms Directive, the broader policy context and its intervention logic. It is organised as follows:

- The Directive, its background and the key provisions used throughout the report to answer the evaluation questions (par. 1.2.1);

⁸ COM (2013) 716 final.

⁹ Study to support an Impact Assessment on a possible initiative aimed at improving rules on deactivation, destruction and marking procedures of firearms in the EU, as well as on alarm weapons and replicas, EY and Sipri, June 2014.

¹⁰ Study to Support an Impact Assessment on Options for Combatting Illicit Firearms Trafficking in the EU, CSES, under approval of the DG HOME, May 2014.

- The relevant set of initiatives undertaken at EU and international level in relation to civilian firearms (par. 1.2.2);
- The description of the objective tree emerging from the entry into force of the Directive's amendment in 2008 (par.1.2.3). This paragraph also presents how each provision contributes to the achievement of the Directive's objectives.

1.2.1 The Firearms Directive and its provisions

The Firearms Directive¹¹ was adopted in 1991. At that time, intra-EU frontiers and borders controls were about to be abolished including the firearms sector, which raised concerns as regards security safeguards.. The Directive thus laid down the minimum requirements that MS should impose as regards the acquisition and possession of the different categories of firearms to facilitate commercial exchange across MS while guaranteeing the security of EU citizens.

This measure provided an essential contribution to the creation of the Internal Market. Control at intra-EU frontiers was replaced by a legislative framework setting out provisions for the control of weapons for civilian use within the EU MS. By imposing certain restrictions on the circulation of civilian firearms within the EU, the Directive aims at balancing within the EU Internal Market objectives (cross-border movement of firearms) and security policy objectives (high level of security and protection against criminal acts and illicit trafficking). Namely, through the introduction of categories, the Directive has made more dangerous firearms subject to authorisation while avoiding licensing requirements for less dangerous weapons.

The Firearms Directive focuses exclusively on firearms for civilian use. Weapons for armed forces and police are not covered. The Directive establishes the conditions for the sale, acquisition and possession of civilian weapons as well as their transfer between EU MS. More flexible provisions have been introduced for hunting and sport shooting weapons in order to avoid unnecessary impediments for hunters and sport shooters, in particular concerning the transfer of these weapons to other EU MS. For this purpose in particular, the Directive introduced the European Firearms Pass (EFP), a document issued on request by the authorities of a MS to a person lawfully owning and using a firearm.¹²

The Firearms Directive was amended in 2008 (Directive 2008/51/EC¹³) to meet the EU's international obligations which result from the United Nations Firearms Protocol¹⁴ (hereafter the UNFP), in particular Article 10 thereof on the prevention of illicit manufacturing and trade of firearms, their components and ammunition. The revision also took into account the results and proposals for improvement of the Commission's report of December 2000 on the implementation of the Directive¹⁵ following its transposition into national law by all MS (see the Box below).

¹¹ Directive 91/477/EEC, OJ L 256, 13.9.1991, p. 51

¹² Commission Recommendation 2005/11/EC complemented by Commission Recommendation 96/129/EC.

¹³ OJ L 179, 8.7.2008, p. 52.

¹⁴ UN Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition.

¹⁵ COM(2000) 837 final of 15.12.2000

Box 1 – The main conclusions of the first evaluation of the Firearms Directive in 2000

The first evaluation of the Firearms Directive concluded that the Directive had been properly transposed in the MS and its provisions were operating well in practice. In general terms, MS and the interested parties were satisfied with the instruments of the Directive and they were therefore not inclined to substantial modifications to its framework.

Nonetheless there appeared to be omissions and incorrect transpositions of certain provisions, namely the European Firearms Pass. Among the key problems identified were the following:

- Difficulties with the exchange of information (i.e. exchange of information on firearms that are prohibited or subject to authorisation in a particular MS that have decided to adopt more stringent rules than the Directive's; exchange of information with regard to transfers between arms dealers; lack of network for exchanging information between all MS in relation to the implementing rules of the Directive; difficulties in the issuance of the authorisations needed for the transfers¹⁶);
- The disparity or complexity of national legislations, administrative measures and authorisation procedures and the tendency to apply more stringent measures (e.g. European Firearms Pass);
- The differences in the classification of hunting and sporting firearms, as certain MS classify them as war weapons or prohibit certain weapons that are considered to be hunting arms in other MS;
- The administrative burden, especially for small and medium-sized businesses.

The difficulties in the application of the Directive seem to be related more to the behaviour of the national authorities than to the provisions of the Directive.

Therefore, modifications of the Directive would consist more in a clarification of the existing wording of its main provisions than in making substantial changes, in order to ensure that the Directive is applied in a uniform manner throughout the Community.

The amendment intervened in two main areas:

- On the one hand, it *reinforced the security aspects* by introducing provisions such as the authorization to sell firearms on the condition of a check of the private and professional integrity of the dealer; the need to prove to have a "good cause" to buy or own a firearm and to be at least 18 years old, and finally computerised record-keeping systems for firearms for a minimum of 20 years. Moreover the Commission committed to issuing common deactivation guidelines to replace national measures.
- On the other hand, it *further detailed the scope* of the Directive 91/477/EEC and related definitions, by:
 - Clarifying the definition of a firearm as "an object capable of being converted to expel a shot, bullet or projectile [...] if it has the appearance of a firearm, and [...] it can be so converted" , and therefore extending the scope to products which have the appearance of a firearm and can be converted;

¹⁶ Transfer permit is conditional on authorisation from the authorities of the Member State of destination. Some Member States, however, do not issue these kinds of authorisations, because they consider this condition as not necessary in their country.

- Introducing new rules for the marking and deactivation of civilian firearms (e.g., by a competent authority);
- Introducing the notion of “illicit manufacturing and trafficking” and the obligation for MS to adopt dissuasive rules or penalties for infringements

In what follows, we provide a detailed description of the provisions of the Firearms Directive to better define the scope of the study and as a background for the analysis presented in the following paragraphs.

Categories of firearms (Annex I section I and III): firearms are classified into four categories which correspond to different regimes of acquisition, possession and transfer.

- “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”.

The Directive applies also to essential parts (as defined in Annex I section II) and to ammunitions. It does not apply to weapons and ammunitions of war or to firearms possessed or traded by armed forces, public authorities and public bodies concerned with the historical aspects of weapons (art. 2). The scope of the Directive excludes also firearms which according to Annex I section III:

- are designed for alarm, signalling, life-saving, animal slaughter or harpoon fishing or for industrial or technical purposes provided that they can be used for the stated purpose only;
- are regarded as antique weapons or reproductions of such where these have not been included in the previous categories and are subject to national laws;
- have been rendered permanently unfit for use by deactivation, ensuring that all essential parts of the firearm have been rendered permanently inoperable and incapable of removal, replacement or a modification that would permit the firearm to be reactivated in any way.

Ownership (art. 5, 6, 7, 8): according to the Directive (art. 5), MS shall allow the acquisition and possession of firearms only by persons who have good cause and who:

- are at least 18 years of age, except in relation to the acquisition, other than through purchase, and possession of firearms for hunting and target shooting, provided that in that case persons of less than 18 years of age have parental permission, or are under parental guidance or the guidance of an adult with a valid firearms or hunting licence, or are within a licenced or otherwise approved training centre;
- 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 indicative of such danger.

MS may withdraw authorisation for possession of the firearm if any of the conditions on the basis of which it was granted are no longer satisfied. The acquisition and possession of firearms of category A is prohibited (art. 6). Firearms of category B are subject to a license/authorisation (art. 7), whereas the acquisition and possession of category C should be at least subject to a declaration (art. 8). As for firearms of category D no specific regime is established by the Directive and the initiative is left to MS.

Dealers and brokers (art. 1 and 4): firearms' dealers and brokers are defined in art. 1 of the Directive. Art. 4 states that: "Member States shall make the pursuit of the activity of dealer within their territory conditional upon authorisation on the basis of at least a check on the private and professional integrity and of the abilities of the dealer. In the case of a legal person, the check shall be on the person who directs the undertaking". Furthermore, each dealer is required to "keep a register covering various details of his or her inventories and sales throughout his period of activity" and "it is necessary that Member States exercise a strict control over this activity".

As for brokers, the Directive demands MS to establish a system for regulation of their activities (art. 4.b).

Marking and traceability (art. 4): Member States shall ensure that any firearm or part placed on the market has been marked and registered. For this purpose, MS may require either a unique marking or maintain any alternative marking with a number or alphanumeric code allowing the identification 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. The amended Directive also includes provisions for the introduction of national computerised data-filing systems in order to strengthen traceability of firearms. These systems will register key information on all circulating firearms in MS and must be in place in all MS by 31 December 2014.

Deactivation (Annex I section III): the Firearms Directive establishes minimum restrictions and includes the obligation for MS to make arrangements for the deactivation measures to be verified by a competent authority. This authority shall ensure that the national procedures for deactivation of firearms render the weapons permanently deactivated. Waiting for the common guidelines on deactivation that the Commission has undertaken to deliver, MS are free to adopt the most suitable procedures in this regard.

European Firearms Pass (art. 12): the Directive has introduced more flexible rules in respect of hunting and sport shooting in order not to hinder their movement across MS. 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. The EFP should be regarded as the main document needed by hunters and marksman and MS should not make acceptance of an EFP conditional upon the payment of any fee or charge.

Information sharing and transfer procedures (art. 8, 11, 13 and 15): the Directive includes several requirements for MS to mutually exchange information such as: the communication by an MS of the prohibition or request for authorisation applied to firearms in category B, C or D (art. 8.3), the exchange of information related to transfer and acquisition/possession of firearms (art. 13). Moreover, MS shall notify the Commission of their national provisions where the national law is more stringent than the minimum standard (art. 15). Moreover, the Directive sets the transfer procedures for the movement of weapons within the Community.

Passing from one MS to another while in possession of a weapon should in principle be prohibited. Derogation is acceptable only if a procedure is adopted that enables MS to be notified that a firearm is to be brought into their territory. Art. 11 sets the procedure for transfer and details the information to be provided.

Penalties (art. 16): MS shall lay down the rules on penalties applicable for infringements of the national provisions.

This framework represents a set of common minimum standards and MS are allowed to take more stringent measures to meet specific national security needs (art. 3).

1.2.2 The relevant policy context

The amended Firearms Directive is part of a set of initiatives taken at international level for the implementation of the UN Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition¹⁷ (UNFP), supplementing the United Nations Convention against Organised Crime. The UNFP entered into force in 2005 and it has been ratified by more than 100 countries¹⁸. It represents a global instrument to address the issue of small arms manufacturing and trading.

The provisions established under article 10 of the UNFP have been transposed into European Legislation by Regulation No. 258/2012¹⁹ that establishes rules for authorised export, import and transit for non-military firearms coming from or directed to third countries. The main contribution of the regulation is the principle that civilian firearms transfer between MS is conditional on the knowledge and authorisation of all countries involved and that their origin should be known.²⁰

The principles guiding the action of the European Commission to manage and reduce the risks posed by civilian firearms are embedded in the overall strategy, launched in October 2013, "Firearms and the internal security of the EU: protecting citizens and disrupting illegal trafficking".²¹ This Communication proposes measures to increase the level of security of EU citizens in relation to firearms and to safeguard their licit market. Such targets are pursued through the establishment of a set of policies, structured through legislation, operational action, training and EU funding, centred on four priorities:

¹⁷ The UNFP has been ratified by the Commission in March 2014.

¹⁸ On February, 11th 2014 the EU approved the UNFP.

¹⁹ Regulation No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of an trafficking in firearms, their parts and components and ammunition, supplementing the UN Convention against Transnational Organised crime (UNFP) and establishing export authorisation, an import and transit measures for firearms, their parts and components and ammunition.

²⁰ At the same time the right of temporary move of firearms across countries for hunters or sport shooters is granted by Article 9 of the Regulation No. 258/2012.

²¹ COM(2013) 716 final, Communication from the Commission to the Council and the European Parliament, Firearms and the internal security of the EU: protecting citizens and disrupting illegal trafficking.

- Safeguarding the licit market for civilian firearms;
- Reducing diversion of firearms into criminal hands;
- Increasing pressure on criminal markets;
- Cross-border cooperation.

At international level there is considerable discussion of how to regulate and control small arms and light weapons as well as civilian firearms. The Arms Trade Treaty is expected to enter into force on 24 December 2014, as it reached the required number of State ratifications. Many of the States among the first 50 to ratify (the threshold for entry into force) will be EU MS. The implementation of the UNFP and the potential for further modification is under continuous review through a regular calendar of meetings at expert and governmental level.

In addition to the initiatives mentioned above, several groups of experts have been set up to foster cooperation among MS and to support the decision making process of the EC. One of them is the Contact Group on Civilian Firearms in the Internal Market, established in 2009 by the Commission following the amendment of the Directive 91/477 in 2008 (art. 13.3). This group aims at facilitating the exchange of information among MS on cross-border transfers of firearms. The Firearms Directive has also set up the Firearms Committee (art. 13a) whose first meeting took place on December 2013. This group should handle all legal and administrative issues related to the implementation of the Directive and assist the Commission in fulfilling the implementing powers conferred to it by the Directive.

Another Group is the European Firearms Expert Group (EFE)²², established in 2004, and aimed at catalysing MS efforts in the fight against illicit trafficking of firearms to improve EU citizens' security.

The last expert group is the Firearms Expert Group²³. It was created in 2013 and involves representatives from academia, research, industry, NGOs, EU agencies and National administrations.

1.2.3 The objective tree

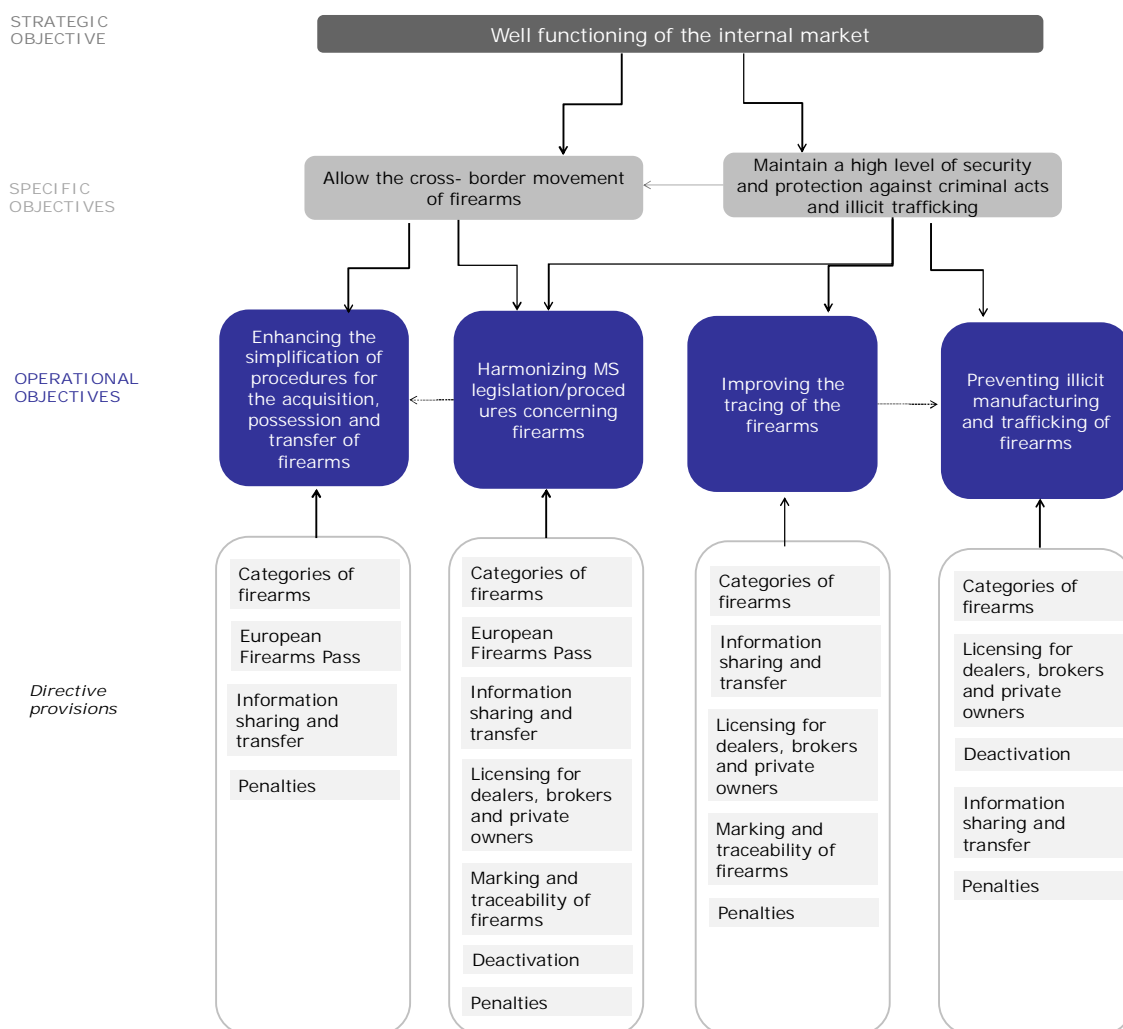
In order to clarify the intervention logic of the Directive, we defined the objective tree, by identifying strategic, specific and operational objectives and by defining a list of provisions grouping the Directive's set of rules. The structure shown in Figure 1 highlights the causal links between the micro and the macro levels of the analysis. The intervention logic of the Firearms Directive is defined in all its components and can be read both vertically and horizontally.

The Directive has a twofold objective: to allow the cross-border movement of firearms and to maintain a high level of security and protection against terrorism and criminal acts committed with civilian firearms. For the scope of this evaluation study, these are named as specific objectives, supporting the more strategic objective of the good functioning of the internal market. The objectives of the Firearms Directive do not include issues related to the mechanical safety of a firearm.

²² The group is composed of firearms experts, representatives of MS authorities, Europol and representatives from associated countries as Liechtenstein, Norway, Switzerland and Turkey.

²³ Commission Expert Group on illicit trafficking in firearms to safeguard the EU's internal security (E02931).

Figure 1 - The Firearms Directive objective tree



Source: EY elaboration

The vertical perspective

As regards the top-down perspective the two specific objectives are pursued through four operational objectives and a number of related “key provisions”. These latter are intended to address the different issues and vulnerabilities which can emerge along the life cycle of a firearm (from production to trade, ownership and possession, deactivation and destruction).

In order to allow cross-border movement of firearms across the EU, the Directive provides MS with policy tools and common minimum requirements aimed at harmonising national legislation. A common legal framework is expected to prevent market bottlenecks potentially due to different rules and procedures set at national level. MS are required to adopt the provisions set out in the Directive to align their national legislative systems for civilian firearms.

The internal market is further supported by a quantitative and qualitative simplification of the procedures regarding the possession, acquisition, and transfer of firearms. This underlines the integrated approach of the Directive which

intervenes either on the legislative level in MS or in their operative and procedural patterns.

According to the same logic, security needs are addressed in terms of both crime prevention (specific objective "Preventing illicit manufacturing and trafficking of firearms") and fighting crime (specific objective "Improving the tracing of firearms"). MS are provided with common measures aimed at preventing offences involving civilian firearms. Moreover, the Directive lays down common requirements and procedures to better retrace arms and criminals in case of offences.

The horizontal perspective

Moving to a horizontal perspective, as shown in Figure 1, the same provision can serve multiple operational objectives. Moreover, provisions are linked to each other and may impact multiple stakeholders. These relations among provisions, explained in Table 1, let us "weight" their contribution to the achievement of the different operational objectives and appropriately assess the effectiveness of the Directive. If we take information sharing, for instance, and retrace the logic chain according to the objective tree, we notice how information sharing is transversal to all the other provisions (e.g., an effective exchange of information may have an impact on the categories as it facilitates their understanding and implementation, on marking and deactivation as it fosters a mutual learning and promotes the sharing of good practices among MS, etc.). Further, it has an impact upon all the actors involved (i.e., MS competent authorities, private owners, dealers/brokers, producers, users). Following the previous vertical perspective, the information sharing provision enters both the market and the security fields, thus exercising a direct influence on the strategic objective of the Directive.

Similarly, the operational objectives are interconnected. The normative and procedural harmonisation among MS simplifies, among others, the transfer of firearms across Europe. Further, harmonisation is based on common rules, definitions and principles which allow MS to combat the use of firearms for illicit purposes. Finally, arms subject to the same requirements and controls are easier to be traced and identified.

The horizontal logic counts also for specific objectives. High levels of security reduce the need for controls and allow soft regulations. This optimises bureaucratic procedures and makes market movements faster. Finally, high levels of security reduce overall uncertainty within the internal market. This prevents market distortions due to different danger levels and facilitates fair competition across Europe. The market-security correlation calls for an integrated analytical approach which allows to evaluate potential trade-offs and/or positive externalities among market and security needs.

The use of the objective tree

The objective tree of the Firearms Directive described above has served as the logic framework for the whole evaluation study. Namely, it has been used (see par. 4.2) to assess the relevance of the Directive for the market and security needs, providing the relations among provisions and objectives and thus allowing us to assess the extent to which provisions and their causal links have addressed emerging issues. The effectiveness of the Directive (see par.4.3), its efficiency (see par. 4.4) as well as the added value of the EU intervention (see par.4.5) have also been evaluated against the operational and specific objectives identified in the objective tree.

The Table below illustrates the relevance of the Directive's provisions with respect to the four operational objectives and the overall intervention logic. Starting from the bottom of the objective tree, the table highlights the main logic links which trigger the whole EU intervention.

Table 1 – The logic relations among the provisions and the operational objectives of the Firearms Directive

	HARMONIZING MS LEGISLATION/PROCEDURES CONCERNING FIREARMS	ENHANCING THE SIMPLIFICATION OF PROCEDURES FOR THE ACQUISITION, POSSESSION AND TRANSFER OF FIREARMS	PREVENTING ILLICIT MANUFACTURING AND TRAFFICKING OF FIREARMS	IMPROVING THE TRACING OF FIREARMS
Categories	<ul style="list-style-type: none"> Defines 4 regulatory regimes for all firearms circulating in Europe (<i>Annex I, and Articles 4a, 6, 7, 8, 9, 12</i>). 	<ul style="list-style-type: none"> Sets common (minimum) requirements for the purchase, ownership and transfer of the same firearm across MS; Strengthens information accessibility and exchanges among economic operators (<i>also Art. 8.3 and 15.4</i>); Creates a level playing field (and prevents competitive disadvantages); Limits administrative burden for: <ul style="list-style-type: none"> MS responsible to deliver authorisations/declarations; Economic operators which do not have to make additional declarations/authorisations in MS with different requirements. (<i>Annex I, and Articles 4a, 6, 7, 8, 9, 12</i>) 	<ul style="list-style-type: none"> Defines minimum and common danger thresholds for firearms circulating in EU (no MS can make the same firearm subject to a less stringent regime). (<i>Annex I, and Articles 3, 4a, 6, 7, 8, 9, 12</i>) 	<ul style="list-style-type: none"> Allows to register all firearms circulating across EU according to common criteria; Facilitates communication among law enforcement authorities across EU in case of cross-border crimes. (<i>Annex I, and Articles 4a, 6, 7, 8, 9, 12</i>)
European Firearms Pass	<ul style="list-style-type: none"> Introduces a document recognised all over EU (<i>Art. 12 and Annex II</i>). 	<ul style="list-style-type: none"> As regards transfer procedures, substitutes documents requested to hunters and marksmen by MS with one unique document; Reduces information costs for hunters and marksmen. (<i>Art. 12 and Annex II</i>) 	N.A.	N.A.
Marking and traceability	<ul style="list-style-type: none"> Establishes common marking requirements for all manufactured firearms; (<i>Art. 4.2</i>) Establishes minimum information to be marked on an essential component of the firearm; (<i>Art. 4.2</i>) Introduces computerised data filing system for all firearms circulating in MS (<i>Art. 4.4</i>). 	<ul style="list-style-type: none"> As regards transfer procedures, reduces information costs for producers and dealers as all firearms in EU are subject to the same marking standards (<i>Art. 4.1 and 4.2</i>). 	<ul style="list-style-type: none"> Induces a deterrent effect for illicit manufacturing thanks to the compulsory requirement to mark specific information and firearms' components (<i>Art. 4.1 and 4.2</i>). 	<ul style="list-style-type: none"> Facilitates the identification of firearms owners when a firearm is found on a criminal scene (<i>Art. 4.4 and 4.5</i>).

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	HARMONIZING MS LEGISLATION/PROCEDURES CONCERNING FIREARMS	ENHANCING THE SIMPLIFICATION OF PROCEDURES FOR THE ACQUISITION, POSSESSION AND TRANSFER OF FIREARMS	PREVENTING ILLICIT MANUFACTURING AND TRAFFICKING OF FIREARMS	IMPROVING THE TRACING OF FIREARMS
Licensing for dealers/brokers and private owners	<ul style="list-style-type: none"> Defines common minimum requirements for owners: good reason, personal background, and age (<i>Art. 5</i>). In addition for dealers: activity authorization and minimum controls on the professional integrity/abilities (<i>Art. 4.3</i>). For brokers, at least one of the above conditions is sufficient (<i>Art. 4b</i>). Introduces the compulsory record keeping of all transactions for dealers (<i>Art. 4.4</i>). 	N.A.	<ul style="list-style-type: none"> Induces a deterrent effect for illicit trafficking thanks to the compulsory record-keeping of dealers' transactions (<i>Art. 4.4</i>); Limits the use of firearms for illicit purposes through the establishment of minimum conditions for the ownership (<i>Art. 5, 4.3 and 4b</i>). 	<ul style="list-style-type: none"> Contributes to trace firearms movements across MS through: <ul style="list-style-type: none"> Dealers' registers (<i>Art. 4.4</i>); The obligation for dealers to communicate firearms' transfers to National Authorities of their MS (<i>Art. 11.2 and 11.3, Art. 8.2</i>).
Deactivation	<ul style="list-style-type: none"> Foresees common technical guidelines to allow MS: <ul style="list-style-type: none"> to deactivate the same firearms' components; to implement common procedures and technologies that may guarantee the circulation of deactivated firearms with the same level of security. Prevents inappropriate deactivation procedures thanks to minimum control requirements. Allows the mutual (among MS) recognition of deactivation procedures. (<i>Annex I.III</i>) 	N.A.	<ul style="list-style-type: none"> Prevents criminals to make firearms not permanently inoperable through control requirements on deactivation procedures; Prevents criminals to reactivate firearms thanks to the implementation of common procedures and technologies ensuring high level of security. (<i>Annex I.III</i>) 	N.A.
Information sharing and	(As for transfer) Sets common procedure for transfer of firearms from	<ul style="list-style-type: none"> Obligates MS to communicate if they adopt more stringent criteria than 	<ul style="list-style-type: none"> Prevents illicit trafficking through the obligation on MS to 	<ul style="list-style-type: none"> Strengthens the tracing capacity of law

Evaluation of the Firearms Directive

- Final Report -

	HARMONIZING MS LEGISLATION/PROCEDURES CONCERNING FIREARMS	ENHANCING THE SIMPLIFICATION OF PROCEDURES FOR THE ACQUISITION, POSSESSION AND TRANSFER OF FIREARMS	PREVENTING ILLICIT MANUFACTURING AND TRAFFICKING OF FIREARMS	IMPROVING THE TRACING OF FIREARMS
transfer	one MS to another and identifies minimum information to be provided by interested parties (Art. 11)	<p>those foreseen by the Directive (thus increases transparency on procedures adopted by other MS) (Art. 15.4 and Art. 8.3);</p> <ul style="list-style-type: none"> Introduces Contact Groups helpful in case of difficulties affecting market exchanges and the implementation of the Directive (Art. 13.3). 	<p>communicate:</p> <ul style="list-style-type: none"> to other MS, transfers of firearms across EU (Art. 13.1, 13.2 and 11.4); to the EC, how they make controls on weapons at external EU frontiers (Art. 15.3). <p>Prevents illicit trafficking through the obligation on the person concerned to get a prior licence on each transfer by the MS in which the firearm originates and, in some cases, by the MS of destination (Art. 11)</p>	enforcement thanks to the information requirements on MS (Art. 13, 15.3, 15.4, 11.4).
Penalties	Penalties are laid down at national level. The Directive establishes objects of the penalties (provisions) and guiding principles (effectiveness, proportionality and dissuasiveness) for MS authorities to set their own penalties (Art. 16).			

N.A. = Not Applicable

Source: EY elaboration

1.3 Evaluation methodology

The evaluation approach follows the “evaluation grids” (see Annex “Evaluation grids”) elaborated on the basis of the evaluation questions set in the Terms of Reference and in agreement with the European Commission. The evaluation grids in turn have guided the data collection performed through desk research (see Annex “Desk research”) and fieldwork involving stakeholders.

Our list of stakeholders (see Annex “Stakeholders involved in the study” for a complete list) is divided into four categories as follows:

- Competent authorities in the MS responsible for the Directive’s implementation, i.e. Ministries of Interior/Justice of the MS or competent authorities for the implementation of the Directive, as well as law enforcement institutions;
- Representatives of Firearms producers, dealers and brokers: including the EU umbrella organisation of manufacturers and traders, national associations of manufacturers and/or individual manufacturers and dealers;
- Firearms users, including hunters and marksmen: i.e. associations of firearms users and collectors, at EU and national level, and relevant networks;
- International bodies, associations, research institutes and other experts, ranging from research institutions, such as the representatives of Small Arms Survey Project, to UN Institutions and NGOs dealing with firearms trafficking.

Stakeholders were involved through a set of data collection tools including an online survey, interviews and four case studies.

The Table below illustrates the number of stakeholders involved through the different data collection tools per category of stakeholder. Please consider that more than one stakeholder may be involved as representative of an Institution.

Table 2 – Number of stakeholders involved through the different data collection tools

	Questionnaires completed	Interviews performed	Case study interviews
Member States	34	23	12
Industry	28	16	8
Users	16	9	8
Experts	5	8	2
Total	83 ²⁴	56 ²⁵	30

Source: EY

The survey was addressed to all MS but Denmark, Greece, and Croatia did not answer. While for Denmark and Greece the team managed to arrange an interview with the addressees of the questionnaire to fill the existing information gaps, for Croatia no available contact within the national competent authority was found neither for answering the questionnaire nor for arranging an interview.

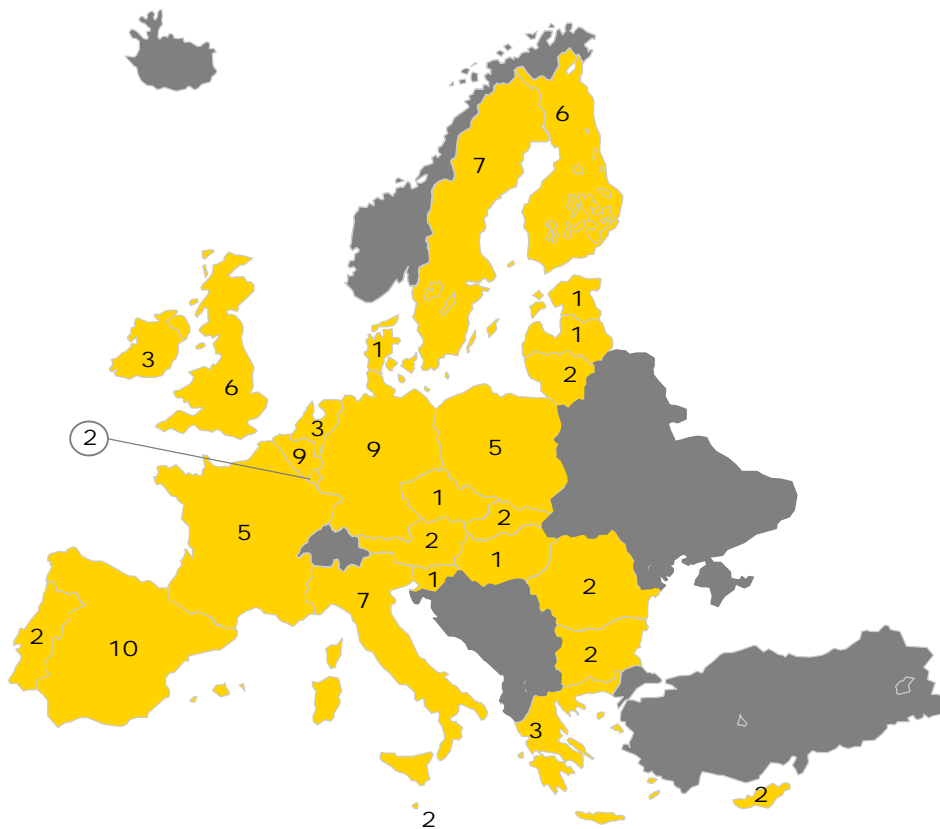
²⁴ Original target 80 questionnaire.

²⁵ Original target 80 interviews taking into account also case study interviews/round tables.

The figure below presents the overall geographical coverage of stakeholders involved in the study with precise number of national institutions per MS (including MS competent authorities, firms, users associations, research centres and universities). In addition, it is worth mentioning that 14 EU or International institutions were also engaged at different points of the study.

The level of engagement is highly variable across MS and is probably influenced by the relevance of the issues related to firearms ownership, manufacturing and transfer at national level. MS with the highest number of engaged institutions are Spain, Germany, Belgium, Italy, and Sweden. While Germany, Belgium and Italy are among the top 4 EU civilian firearms producers, Spain has the highest number of registered hunters in EU and Sweden has the highest share of population owning a firearm.

Figure 2 – Number of institutions consulted per MS



Source: EY

The online survey²⁶ aimed at gathering detailed information on the implementation of the legislation, as well as qualified opinions on current and foreseen challenges. Since different stakeholders could provide insights on different issues, different questionnaires for each stakeholder group were defined. In particular the following distinctions were made:

²⁶ Not all respondents answered to all the questions. Information collected during the desk analysis and interviews were used to complete gaps in questionnaire answers, when possible.

- For the competent authorities, the questionnaire collected input on the national application of the detailed provisions of the Firearms Directive, on the current issues faced in terms of security and/or market functioning, on barriers in the implementation of the Directive, on aspects related to administrative burden and on possible needs for improvement;
- For representatives of the industry, dealers and brokers, the questionnaire focused on the obstacles to the marketing of firearms, lack of clarity on rules, level of administrative burden placed by national legislation and on possible needs for improvement. Also quantitative information on the size and structure of the sector was requested;
- For firearms users, the questionnaire addressed possible obstacles to the free movement across EU MS, uncertainty on applicable rules in different MS, administrative burdens and possible needs for improvement;
- International bodies, associations, research institutes and other experts were involved on issues related to security, illicit trafficking and internal market functioning and were asked about possible needs for improvement.

Interviews aimed at completing and interpreting the information collected through the online survey and, above all, collecting qualitative and more in-depth information from the different categories of stakeholders. Furthermore, they allowed gathering suggestions on possible areas for improvement and recommendations for future EU actions.

Case studies aimed at providing a high level of detail in the analysis, which would not have been feasible across all MS, and at understanding the causal links between the intervention and the achievements/results/impacts. Finally, case studies contributed to the identification of successful practices and approaches for the final recommendations.

Following a set of criteria²⁷ four MS were selected for the case studies:

- Belgium: relatively high size of the market, significant security issues and number of lost and stolen firearms;
- Germany: a large firearms market and a medium-high number of firearms' holders²⁸, although security issue appear quite low;
- France: medium producer, with relatively high number of firearms' holders (as well as lost and stolen);
- Poland: a MS at the external borders of the EU, where both indicators in terms of security issues and size of the market are low.

²⁷ The *size of the firearms market*, estimated based on the total value of firearms export in the Internal Market - intra-EU exports - and towards Third countries - extra-EU exports (the export value has been used as a proxy of the market size, due to the lack of detailed data on the firearms production in each MS).

The *security issues experienced by each MS*, estimated based on the share of homicides committed by firearms (Data at 2012, based on COM (2013) 716. Although security issues cannot be limited to the number of homicides, the variable has been estimated based only on this indicator, being data on homicides available in all the EU MS).

The *firearms as share of population*, as a proxy of both the market size (i.e. the demand side) and potential security issues (Data at 2012, based on COM (2013) 716, updated taking into account data collected during the field research on the number of registered firearms at national level.

The *number of stolen and lost firearms* recorded in Schengen Information System II – SIS II, as an additional proxy of security issues (Data at October 2014, based on records of the SIS, provided by DG Home).

²⁸ The number of lost and stolen firearms is also high, directly related to the large number of firearms circulating in the MS.

The case studies were carried out through both desk and field research. We held round tables and carried out interviews in Belgium²⁹, France³⁰ and Germany³¹. In Poland we carried out phone and written interviews.³²

Data availability

One of the key challenges of this study is the availability of data in relation to both market and security aspects (see Annex "Desk research" for a detailed description of the major data gaps and solutions adopted to overcome them).

Regarding the market, available statistics at EU and national level usually did not allow to isolate civilian from military firearms. Even when this was possible, data were not always available at MS level for all countries (due to confidentiality) and thus did not allow tracing trends of production over time. The description of market structure was weakened by limited access to information related to the main companies operating in the sector.

Also regarding security a number of data gaps presented challenges to the evaluation of the Firearms Directive. Specifically, the absence of disaggregated data on the types/categories of firearms circulating in the EU, and/or illegally used and trafficked and the lack of comparable and detailed data on trends in criminal offences and activities involving civilian firearms at EU level created limitations.

We tried to overcome these limitations by focusing questions – both in the survey and during interviews – on clarifying data related issues. However, most of the time, stakeholders confirmed data issues and were not able to fill all the gaps.

Another limitation relates to the limited availability of data and information to quantify the cost and burden of the implementation of specific provisions. This study describes the main burden and costs and provides a preliminary overview of their scale.

2 Market and security context

2.1 Key features of the civilian firearms market

Two main aspects are treated in the market analysis:

- An assessment of the importance in terms of value and volume of the civilian firearms and ammunitions market;
- An analysis of trends in trade both within the EU28 and between MS and third countries, including an assessment of competitiveness based on the evolution of shares of exports and the Balassa index³³ of revealed comparative advantages.

²⁹ Interviews in Belgium have involved 2 MS competent authorities and 2 Industry representatives (including dealers), the National Proof House and one representative of users (see Annexes for further details on the involved institutions). Please consider that in Belgium interviews have been conducted individually.

³⁰ For France a round table has been organised with 3 representatives of MS competent authorities, 1 Industry representative (dealers) and 2 representatives of users (see Annexes for further details on the involved institutions).

³¹ For Germany a round table has been organised with 3 representatives of MS competent authorities, 3 Industry representatives and 3 representatives of users. A phone interview has been arranged with 1 representative of users and 1 representative of dealers/industry (see Annexes for further details on the involved institutions).

³² For Poland we arranged interviews with 4 representatives MS competent authorities, 1 industry representative (dealer), 1 representative of users and 1 expert.

Overall the data analysis suggests that the Directive concerns a limited part of the EU28 economy with the production of firearms and ammunitions for civilian use being a small percentage of the overall European economy and concentrated in a few MS. International competitiveness is driven by market forces. The internal EU market is mainly served by domestic production. The volume of exports to third countries is increasing due to a boost in international demand and not to an increased share of EU exports. The share of EU exports has tended to fall over time in favour of producers located in third countries facing lower production costs.

2.1.1 The size of the sector at EU level

Eurostat data show that the civilian firearms and ammunitions production in the EU amounted to 1,726 million euros in 2013, which corresponds to 0.034% of the total value of EU28 production and to a production volume of more than 3.7 million units in firearms and around 121 million kilos in ammunitions³⁴ (of which 46% for civilian use).

Over the period 2007-2013 the production of firearms increased at an average annual growth of around 3.13%, rising from a total value of around 1,475 million Euros in 2007 to 1,726 million euros in 2013 (Figure below). Overall, employment in the civilian firearms and ammunitions sector represents a relatively low share of total employment at EU level, accounting to around 15,604 employees.³⁵

Using data from 2012, the European share is around 18% of global production, equal to 13,003,130 units.³⁶

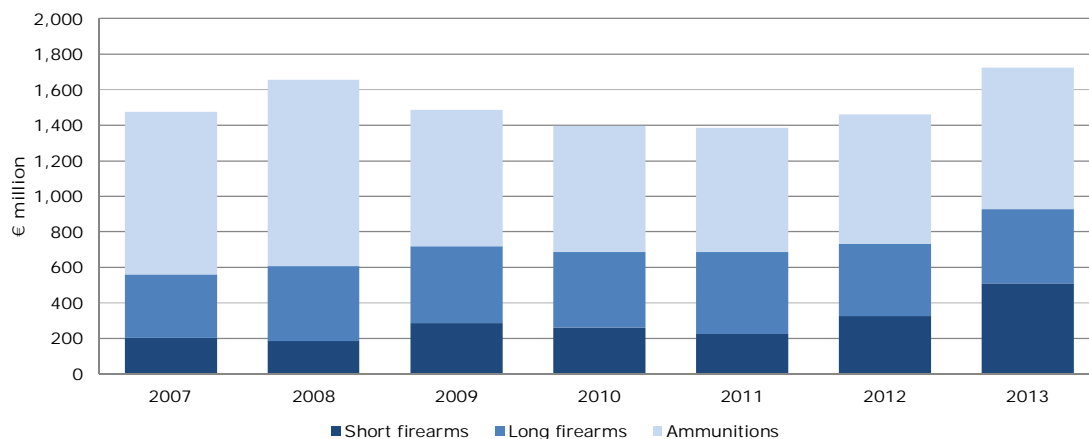
³³ The Balassa Index is a measure of competitiveness. It is defined as: $(E_{ij} / E_{it}) / (E_{nj} / E_{nt})$, where: "E" is the export flow; "i" is the country; "n" is a set of countries; "j" is the commodity and "t" is a set of commodities. RCA values higher than 1 indicate that a given country has a comparative advantage in the production of a given product compared to a set of reference countries. For more information, the reader can refer to: Balassa, B., (1965), 'Trade Liberalisation and 'Revealed Comparative Advantage'', Manchester School of Economic and Social Studies (1965), Vol. 33, pp. 99–123.

³⁴ Prodcom Eurostat data.

³⁵ Estimate based on LFS and Prodcom data: LFS reported data aggregated at NACE.Rev.2 two digits level for "Manufacture of fabricated metal products, except machinery and equipment" (NACE.Rev.2-25) whereas Prodcom reports data on production at eight digits level allowing for the calculation of the share of manufacture pertaining to firearms and ammunitions for civilian use (including short firearms – 25401230, long firearms – 25401250 and ammunitions – 25401300). Based on the share of firearms and ammunition production on the overall manufacture production we have apportioned the LFS data to estimate the number of employees.

³⁶ Estimates on global production are provided by the World Forum on Shooting Activities (WFS) Research Office c/o Anpam. EU production volume in 2012 was 2.3 million units.

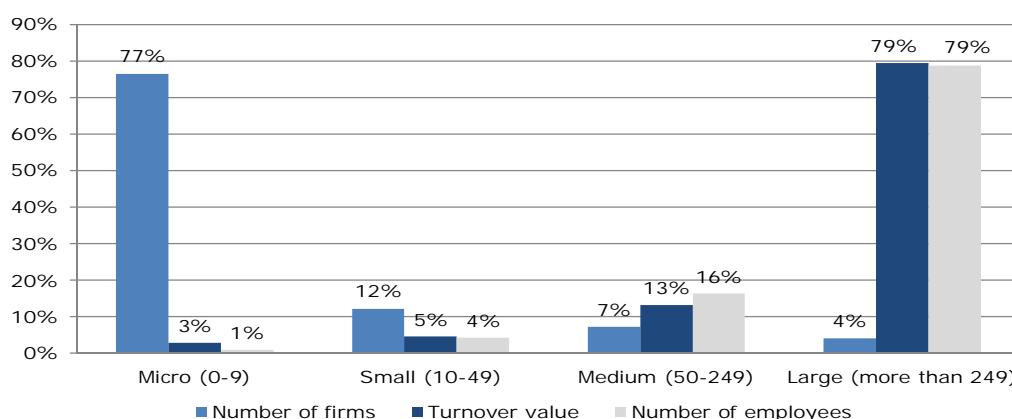
Figure 3 - Annual production of long and short firearms and ammunitions value (in € m) for the EU27 and the EU28 (in 2013)



Source: Eurostat Prodcom data

The majority of firms operating in the manufacture of weapons and ammunitions for civilian and military purposes (NACE Rev.2 25.40³⁷) are very small firms. Firms of less than 10 employees represent 76.5% of the total number of firms operating in the sector at EU28 level. Nonetheless, these firms account for just 3% of the total turnover produced by the sector, while large firms, that represent only 4% of the total number of firms, account for 79% of the total turnover (see Figure below).³⁸

Figure 4 - Distribution of the number of firms with their respective turnover and number of employees according to the size



Source: EY calculations based on Eurostat SBS (2011 – last available year) for the number of firms and turnover and on Amadeus for the number of employees

³⁷ For the distribution of production across firms of different size we refer to Eurostat SBS data, which do not distinguish between civilian and military firearms production.

³⁸ According to Amadeus database, based on the number of employees in 2011, the ten largest enterprises producing both civilian and military firearms and ammunitions in Europe are: Arsenal AD, Vazovski Mashinostroitelni Zavodi and Arcus Co. in Bulgaria; Sellier & Bellot and Česka Zbrojovka, A.S. in the Czech Republic; EAS in Greece; MBDA Italia in Italy; Santa Barbara Sistemas in Spain; General Dynamics Limited and BAE Systems Global Combat Systems Munitions Limited in the United Kingdom.

Box 2 – Focus on the production and ownership of alarm weapons

When presenting the sector of civilian firearms, it is worth mentioning some figures on the production and ownership of alarm weapons. Despite being unable to fire live ammunitions, alarm weapons may become a potential source of firearms as shown by documented cases of conversion presented in par. 2.2.1.

Alarm weapons make a loud noise, but they do not fire a live round. Alarm weapons have a range of legitimate uses, and the type of alarm weapon could be tailored to the particular use. For example, alarm weapons have been used in sporting events as starting pistols; they can be used in the production of films, television programmes or plays where it is necessary to reproduce the firing of a live weapon in a scene; they are used in airports to move birds away from runways or on farms to move birds away from crops; they are used in various cultural settings where, for example, tradition requires that gunfire accompanies the celebrations at a wedding or a birthday celebration.

Various kinds of alarm weapons exist, the different models being adapted to the specific use. Some use a cartridge that makes the same noise as a live firearm, but the cartridge in that case is “blank”; in other words, it does not contain a projectile and only air/gas is expelled from the barrel when a shot is fired. Alarm weapons can be adapted so that a rubber pellet or rubber bullet is expelled from the barrel when fired. There are alarm weapons that are linked electronically, either by a wire or wirelessly, to a loudspeaker system. When the trigger is pressed, the recording of a shot being fired is played through the sound system.

The definition of alarm weapons is highly variable across MS³⁹, and national approaches differ (see also par. 3.1) as regards the inclusion of these items under the provisions of the Firearms Directive (based on their “convertibility”).

Concerning the market for alarm weapons, there is a serious lack of consolidated statistics at the EU level. Europe-wide statistics report on the production and trade of “firearms”, by aggregating data for wide and different categories of firearms for civilian use⁴⁰, and “other arms”.⁴¹ This - together with different classification rules implemented at national level - makes it particularly challenging to link the Eurostat categories with the legislative classifications of firearms and to collect comparable data on alarm weapons in the different MS.

However, despite the lack of statistics, some assumptions can be made showing that alarm weapons represent a quite significant share of the civilian firearms market in Europe. Some indications on the overall size of the market for alarm weapons in the EU are provided by specific data available in some MS such as Italy (the main EU producer of firearms, as well as an important player in the production of alarm weapons⁴²), where these goods are tested and traced.

³⁹ For example, in Italy alarm weapons include two categories, differently treated by the legislation, i.e. blank-firing, not considered as firearms, and signal weapons included in the category C of the Firearms Directive; in other MS, such as Germany, alarm weapons are generally defined as an overall category of guns for firing blanks, warning shots, irritants or signals. These examples are illustrative cases of the difficulties encountered when comparing data across MS.

⁴⁰ Eurostat database PRODCOM on firearms refers to NACE REV 2 classification including: “revolvers and pistols, excluding military firearms, machine-pistols, signal flare firearms, blank firers, captive-bolt humane killers, muzzle loaders, spring, air or gas weapons, imitation weapons”.

⁴¹ Other arms in Eurostat database refer to the commodity group 25401290 Other arms (spring, air or gas guns and pistols, truncheons, excluding for military purposes).

⁴² Among the major companies producing alarm weapons in Italy, the following can be mentioned: Fratelli Tanfoglio S.n.c., Bruni and Kimar.

In 2013, the Italian national Proof House tested 113,958 alarm weapons (blank and signal weapons⁴³), representing 11% of total tested firearms in that year.⁴⁴ Based on the information collected, this share remained quite stable over the years, with alarm weapons accounting for about 10% of total tested firearms between 2008 and 2013.

Germany is the other main manufacturer among EU MS⁴⁵, with 115,000 alarm weapons produced each year, about 40% of which is exported worldwide.⁴⁶

Taking into account that Italy and Germany are the main producers and that other EU MS have residual production, the EU production of alarm weapons can be assumed above 230,000 units per year, out of which about 30% are exported outside the EU and 160,000 circulate in the EU. Considering that the volume of firearms produced in the EU between 2010 and 2012 was on average equal to 2,1 million units, alarm weapons can be assumed to represent about 11% of total firearms.

However, a number of alarm weapons circulating in the EU, estimated at 90-100,000 units, are imported from Turkey⁴⁷, which benefits from lower production costs and less stringent rules and standards (as compared to some MS such as Italy). Thus, adding imports from Turkey to a minimum of 160,000 units produced and sold in the EU, we can estimate the number of alarm weapons yearly marketed across the EU at a minimum of 250-260,000 units.

On the other hand, taking into account another source, namely information provided directly by Italian producers⁴⁸, Italian production accounts for 30% of the EU market. This would bring the number of alarm weapons circulating in the EU to around 370,000 units⁴⁹.

We can therefore conclude that the European market of alarm weapons is likely to range between 250/260,000 units and 370,000 units per year.

Although few MS appear to account for the whole production of alarm weapons in the EU, the intra-EU trade of these items involves several MS; for example, with reference to signal weapons⁵⁰, Italy exports them to many MS, including France, Germany, the Czech Republic,

⁴³ For the purpose of homogeneity, we included under alarm weapons both signal weapons and blank weapons, although the former are considered by the Italian law as regular firearms, while blank weapons are regulated ad hoc.

⁴⁴ Data provided by the National Proof House during a meeting in Gardone Val Trompia, on February 14th 2014 within the study to support an Impact Assessment on a possible initiative related to improving rules on deactivation, destruction and marking procedures of firearms in the EU, as well as on alarm weapons and replicas, conducted by EY and Sipri.

⁴⁵ According to an Italian association of gunsmiths, Germany is a main player in the production of alarm weapons, with relevant companies in this sector: Umarex, Esc, Simbatec and Waimex. Austria is mentioned as a producer of alarm weapons, with companies such as ISSC.

⁴⁶ Data provided by a German association of firearms manufacturers. Moreover, according to the data provided by two German Proof Houses (out of the 7 Proof Houses operating in the MS), around 80,000 alarm weapons are tested each year (out of 350,000 tests yearly executed by the two Proof Houses). The number of replicas tested is definitively lower, estimated around 150, each year - data provided by the German Ministry of Interior, on the basis of information collected from the German Proof Houses.

⁴⁷ According to estimates provided by an Italian association of gunsmiths, Turkey produces about 300,000-350,000 alarm weapons per year. Almost 30% is exported to the European market.

⁴⁸ Meeting with the key Italian firearms producers in Gardone Val Trompia, on February 14th 2014 within the study to support an Impact Assessment on a possible initiative related to improving rules on deactivation, destruction and marking procedures of firearms in the EU, as well as on alarm weapons and replicas, conducted by EY and Sipri.

⁴⁹ This figure takes also into account that approximately 2% of the alarm weapons tested in 2013 by the Italian National Proof House are imported from other countries.

⁵⁰ Signal weapons are a type of alarm weapons, they are normally used to mark a location by firing a flare or tracer round into the air. They may also be used to illuminate a small area for a short time during hours of darkness by firing a bright illuminating round that then falls to the ground. Signal weapons are likely to be standard equipment on, for

Bulgaria, Slovenia, Croatia, Spain, Sweden, Finland, Greece, Slovakia, Poland, Lithuania, Ireland, Estonia, Austria and Portugal. Lithuania, until 2011 (i.e. before the change in the national legislation), was a major market for alarm weapons, with 7,000 alarm weapons⁵¹ yearly registered, representing 5% of circulating firearms.⁵²

Source: Study to support an Impact Assessment on a possible initiative related to improving rules on deactivation, destruction and marking procedures of firearms in the EU, as well as on alarm weapons and replicas, EY and Sipri, June 2014

2.1.2 The size of the sector at MS level

Based on WFSa data expressed in units of production reported at country level, we estimate the production values of the sector per MS. Italy is the main producer of firearms with a total value of around 291 million euros (37% of the overall production). Other major producers of firearms are Austria with an estimated share of around 32%, Germany with 9% and Belgium with 5%.⁵³

Table 3 - Estimates of firearms production per MS in 2012

	TOTAL NUMBER OF UNITS	ESTIMATE OF TOTAL VALUE (€ THOUSAND)	ESTIMATED % ON EU28 TOTAL PRODUCTION VALUE
Austria	883,000	253,149	31.8%
Belgium	59,000	39,295	4.9%
Bulgaria	5,000	511	0.1%
Croatia	390,100	33,427	4.2%
Cyprus	0	-	0.0%
Czech R.	163,000	30,435	3.8%
Denmark	0	-	0.0%
Estonia	0	-	0.0%
Finland	80,000	36,476	4.6%
France	9,346	4,783	0.6%
Germany	298,898	71,705	9.0%
Greece	0	-	0.0%
Hungary	0	-	0.0%

example, boats and ships. Individuals who are going into an environment from which they may later need to be rescued may carry a signal weapon. Information on this type of alarm weapons is available in Italy as they are classified as category C firearms according to the national legislation and thus adequately traced.

⁵¹ Ministry of Interior.

⁵² In Lithuania the estimated number of firearms amount to almost 140,000 units (based on data provided by MS authorities).

⁵³ Estimates based on WFSa data on national production expressed in units, Eurostat Prodcom data and the Eurostat International Trade Database. These estimates should be interpreted with high caution as the production figures sourced from WFSa are not always in line with data published by Eurostat. WFSa figures are the only source of information that to our knowledge allows for the breakdown at country level of production. WFSa data are only available for 2012 and are based only on units of long and short firearms not including ammunitions. To calculate production value, we first compute an average price at country level based on the average value per unit of exports, for which both values and quantities of exports are available at MS level thanks to the International Trade Database.

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	TOTAL NUMBER OF UNITS	ESTIMATE OF TOTAL VALUE (€ THOUSAND)	ESTIMATED % ON EU28 TOTAL PRODUCTION VALUE
Ireland	0	-	0.0%
Italy	621,531	290,680	36.6%
Latvia	0	-	0.0%
Lithuania	0	-	0.0%
Luxembourg	0	-	0.0%
Malta	0	-	0.0%
Netherlands	0	-	0.0%
Poland	11,000	663	0.1%
Portugal	38,000	16,816	2.1%
Romania	51,000	11,321	1.4%
Slovakia	3,050	694	0.1%
Slovenia	0	-	0.0%
Spain	33,583	4,420	0.6%
Sweden	0	-	0.0%
United Kingdom	250	661	0.1%
EU28	2,646,758	795,035	100%

Source: EY calculations based on WFSA, Eurostat Prodcom data and Eurostat International Trade Database and SBS data.

Trends in production - available only for selected countries⁵⁴ - have been heterogeneous. Over the period 2007-2013, short firearms production has increased both in Italy and Germany, at an average growth rate of 20% and 1.4% respectively. As for production of long firearms, Spain and Italy experienced a slightly negative average growth rate in the order of -0.03% and -2.1% respectively, while in Finland and UK the production increased at an average growth rate of 21.2% and 1.7% respectively. Ammunitions production declined in Greece, Italy and Portugal at an average rate of 10.2%, 9.8% and 4.4%, while it increased at an average growth rate of 9.2% in Finland and 1% in the UK.

As regards the market structure, we report information gathered through the interviews:

- Finland and Austria have a similar market structure, with one big producer (Sako and Glock, respectively) and few gunsmiths⁵⁵;
- In Spain there are 4 manufacturers of small and medium size⁵⁶ - Ardesa, Benelli Beretta Iberica, Dikar and Aya. The first three account for 95% of Spanish firearms production

⁵⁴ Given the confidentiality of Eurostat data, it is possible to establish a trend only for selected countries.

⁵⁵ Interviews with one big Finnish producer and one international industry representative of firearms producers.

⁵⁶ Interview with a Spanish producer.

in volume.⁵⁷ The rest of the market is composed of 23 very small producers of high quality handcrafted guns for collectors⁵⁸;

- In the UK there are less than 10 firms of small and medium size.⁵⁹ Holland & Holland, James Purdey and Sons, William Evans and Westley Richards are the biggest British manufacturers, accounting for around 70% of the total volume and value of civilian firearms and ammunitions produced;
- As for France: Browning, Beretta, Blazer, Verney-Carron, Chapuis Armes, Winchester are the most important firearms' producers. Some of these companies are also branches of the most important producers at European level;⁶⁰
- In Belgium only Browning, owned by Herstal Group, is an important producer. Though of a very small scale, there are some producers of luxury firearms (for example Lebeau-Courally and Armurerie Masquelier). The rest of the market is composed of SMEs;
- Polish production of firearms and ammunitions is very limited. A clear picture on producers is hardly retrievable, but according to information provided by the Ministry of Interior, an important producer seems to be Mesko (previously Bumar Amunicja);
- The market structure is slightly different in Italy and Germany, where the number of producers is relatively large. In Germany there are 8 large manufacturing enterprises (e.g.: Blaser, Merkel, Umarex, Carl Walther, RUAG Amotec, J.G. Anschütz).⁶¹ The German market of firearms and ammunitions also includes 16 SMEs and 76 micro enterprises.⁶² In Italy there are 108 firearms firms⁶³, mainly of small size. Among those, less than 15 companies represent nearly 90% of the market.⁶⁴ According to Amadeus database for 2013, the biggest civilian firearms-producing firms are Beretta, Armi Perazzi, and Sabatti.

As for dealers and brokers, official statistics were not available, thus data were mainly collected from industry representatives⁶⁵ through their answers to the survey and the interviews. Figures are not available for all countries.

According to the reply of an international association of arms dealers and brokers, there are around 20,000 operating in Europe and about 100,000 employees. At MS level the number of registered dealers and brokers varies a lot, and it is not always possible to distinguish between the two.

⁵⁷ Interview with a Spanish firearms producers' representative.

⁵⁸ Reply of a Spanish firearms producer to the survey.

⁵⁹ Interview with a British representative of producers and dealers.

⁶⁰ Amadeus database, 2013.

⁶¹ According to a German association for firearms producers and users.

⁶² Reply of a German association for firearms producers and users to the survey.

⁶³ "La produzione di armi e munizioni per uso civile, sportivo e venatorio in Italia", Università degli Studi di Urbino Carlo Bo, November 2011.

⁶⁴ Interview with an international representative of firearms producers. According to an interview held with an Italian producer, between 30 to 35 firms make 70% of the market.

⁶⁵ For Estonia, France, Lithuania, Luxembourg and Poland the source of data is the MS Authority.

The EU countries with the smallest number of operators are Luxembourg (with 12 registered dealers), Lithuania (24 dealers, 70 brokers), Estonia (25 dealers), Slovenia (125), Ireland (150), Belgium (180) and Sweden (220). Other MS have a relatively large number of operators, such as Poland (322 dealers and 108 brokers), Greece and Hungary (500 dealers both), Finland (580), Spain (650) and Austria (700). Then there is the group of countries with the largest network of dealers, such as Italy (1,500 dealers), Germany (1,800), France (2,000⁶⁶) and the United Kingdom (3,500).

Data collected do not allow us to trace any direct correlation between MS production and the national network of dealers and brokers. For instance, while Italy, Germany and Austria are the main producers with a corresponding relevant number of dealers and brokers, France and the United Kingdom only account respectively for 0.6% and 0.1% of total EU production in 2012 but have the highest number of retailers.

To conclude on the size of the market, it is important to notice that the number of registered civilian firearms varies highly across MS and it is linked to national hunting and sport shooting traditions and national laws regulating the ownership of firearms. There are indeed MS, such as Finland, where approximately 29% of the population own a firearm and MS, such as Netherlands, where only 1% of the population own a firearm.

Even though the exact number of civilian firearms is not available (see par. 3.4.2 for the description of the main challenges in terms of firearms traceability), we present below an approximation based on data provided directly by national competent authorities.

Table 4 – Number of registered firearms and firearms on 100 population in some EU MS⁶⁷ in 2013

MS	Registered firearms	Firearms on 100 population
AT	360,000	4.2%
BE	644,266	5.8%
BG	360,688	5.0%
CY	160,298	18.7%
CZ	760,944	7.2%
DE	5,300,000	6.6%
EE	62,500	4.7%
ES	3,465,887	7.5%
FI	1,600,000	29.4%
FR	3,865,300	5.9%
HU	212,017	2.1%
IE	178,191	3.9%
LT	140,000	4.8%

⁶⁶ This figure includes gunsmiths (in French "*armuriers*") estimated to be between 800 and 1,000. Source: EY Roundtable in Paris.

⁶⁷ As for DK, EL, HR no answer to the survey has been collected and for IT and SI the number of registered firearms has not been provided by involved stakeholders.

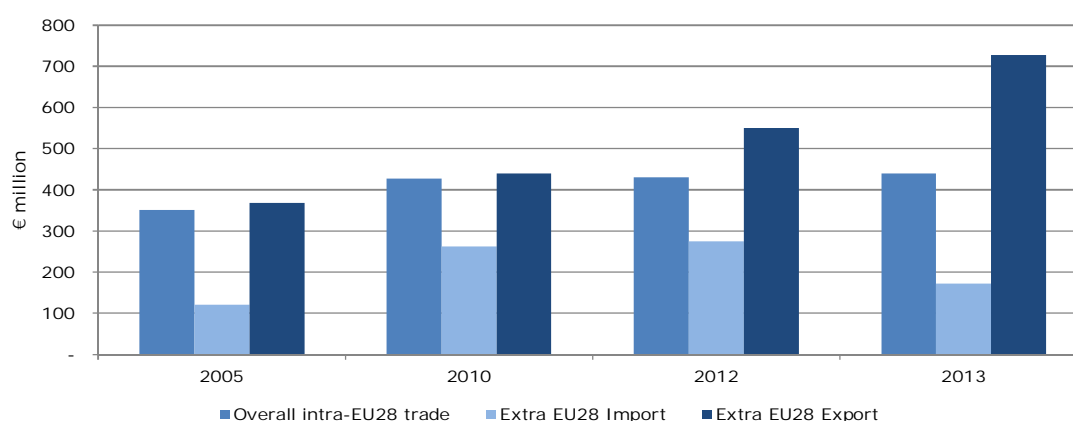
MS	Registered firearms	Firearms on 100 population
LU	86,400	15.7%
LV	65,971	3.3%
MT	84,363	19.0%
NL	168,000	1.0%
PL	505,171	1.3%
PT	1,500,000	14.4%
RO	219,277	1.1%
SE	1,947,204	20.2%
SK	253,527	4.7%
UK	2,204,030	3.4%

Source: EY Survey for the number of registered firearms (except for UK relying on interview) and Eurostat data on population at 1st January 2014 for the population at national level.

2.1.3 Trade and competitiveness at EU level

The EU28 is a net exporter of firearms to third countries. In 2013 the value of firearms and ammunitions exported from the EU28 to third countries accounted for 727 million of euros, whereas the value of firearms and ammunitions imported was 173 million of euros (see Figure below). Over the period 2005-2013, imports from third countries increased at a slower average annual pace (5%), passing from 26% in 2005 to 28% in 2013. The majority of EU28 demand is served within the Internal Market.

Figure 5 – Trend of overall intra-EU28 trade and of import/export of firearms and ammunitions from/toward third countries between 2005 and 2013

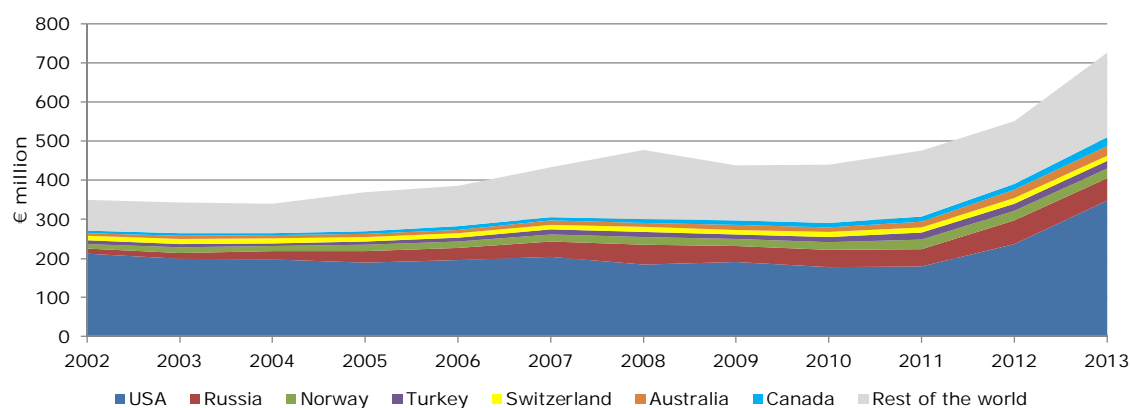


Source: Eurostat International Trade Database

The export of firearms produced in EU28 MS to third countries experienced an annual growth rate of 12% between 2005 and 2013. The overall trend in the EU firearms industry is strongly related to trends in US demand. Since 2005, nearly half of EU28 exports in value (and more than one third in volume) on average have been directed towards the USA. Other important

countries of destination for EU28 exports (and their respective average share of EU export) over the period 2005-2013 are Russia (8%), Norway (4%), Turkey, Switzerland, Australia and Canada (all with 3%). Total exports declined in the years just after the 2008 financial crisis and started recovering after 2010 and they are now increasing⁶⁸ (see Figure below).

Figure 6 - Destination of EU28 export of civilian firearms and ammunitions between 2002 and 2013



Source: Eurostat International Trade Database

The positive trend in EU28 exports is explained by a boost in demand in the international market and not by an increased share of European exports in its major markets of destination. In the US firearms and ammunitions imports have increased at an average growth rate of 15% between 2005 and 2013, while the European share in this country has decreased from 61% to 44% over the same period. In Russia imports increased by 37%, but the European market share passed from 95 to 82%. In Turkey imports grew at a pace of 15% on average, but imports from Europe decreased from 87% to 67% of total imports. In the Table below we report the evolution of shares in the most important markets of destination for European exports over the period 2005-2013.

Table 5 – EU28 share in major markets of destination between 2005 and 2013

	2005	2006	2007	2008	2009	2010	2011	2012	2013
AUSTRALIA									
EU28	43%	18%	19%	11%	17%	18%	17%	28%	32%
Rest of the world	57%	82%	81%	89%	83%	82%	83%	72%	68%
CANADA									
EU28	18%	20%	18%	24%	18%	17%	16%	18%	20%
Rest of the world	82%	80%	82%	76%	82%	83%	84%	82%	80%
NORWAY									
EU28	84%	90%	85%	87%	88%	86%	81%	88%	91%
Rest of the world	16%	10%	15%	13%	12%	14%	19%	12%	9%
RUSSIA									

⁶⁸ Eurostat data, International Trade Database.

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	2005	2006	2007	2008	2009	2010	2011	2012	2013
EU28	95%	91%	89%	89%	89%	83%	83%	85%	82%
Rest of the world	5%	9%	11%	11%	11%	17%	17%	15%	18%
SWITZERLAND									
EU28	86%	88%	93%	89%	88%	88%	88%	88%	86%
Rest of the world	14%	12%	7%	11%	12%	12%	12%	12%	14%
TURKEY									
EU28	87%	82%	84%	90%	88%	91%	76%	70%	67%
Rest of the world	13%	18%	16%	10%	12%	9%	24%	30%	33%
USA									
EU28	61%	56%	50%	48%	43%	44%	43%	43%	44%
Rest of the world	39%	44%	50%	52%	57%	56%	57%	57%	56%

Source: UN Comtrade

Overall during the period 2005-2013 the EU28 saw its overall share of firearms and ammunitions export reduced by around 10% points passing from 56.8% in 2005 to 46.5% in 2013. The third countries that have substantially improved their relative position in terms of exports share are Brazil, passing from 6.7% to around 10.6%, the Republic of Korea, passing from 1% to around 7.1%, and Turkey, passing from 2.7% to 5.6%. Other major exporters, such as the US, Canada, Norway, Japan and Russia, have either maintained their share or experienced slight reductions.

Table 6 –Trend in world's shares of 10 major firearms and ammunitions exporters between 2005 and 2013

	2005	2006	2007	2008	2009	2010	2011	2012	2013
Brazil	6.7%	7.4%	9.1%	9.7%	12.9%	12.2%	10.5%	10.5%	10.6%
Canada	3.0%	3.5%	3.7%	3.3%	3.0%	3.0%	2.9%	2.8%	2.3%
EU28	56.8%	53.8%	53.9%	50.4%	44.7%	45.0%	44.1%	42.4%	46.5%
Israel	0.1%	0.1%	0.5%	1.2%	3.5%	4.1%	1.9%	1.6%	0.0%
Japan	2.4%	1.9%	1.4%	1.7%	2.0%	1.5%	1.4%	1.6%	1.3%
Norway	2.4%	1.6%	1.5%	1.3%	2.0%	1.4%	2.7%	2.1%	1.8%
Rep. of Korea	1.0%	0.8%	0.7%	4.6%	4.1%	4.9%	4.2%	7.4%	7.1%
Russia	1.7%	1.6%	1.7%	1.7%	1.4%	1.0%	1.7%	1.8%	1.4%
Turkey	2.7%	3.3%	4.2%	3.4%	2.6%	2.9%	3.1%	4.0%	5.6%
USA	17.7%	19.6%	16.3%	17.6%	18.6%	18.9%	22.1%	20.0%	17.2%
Others	5.6%	6.4%	7.0%	4.9%	5.2%	5.3%	5.5%	5.8%	6.4%

Source: EY calculations based on UN Comtrade

The table below shows the Revealed Comparative Advantage (RCA) index⁶⁹ for the top 10 of world exporters including the EU28 over the period 2008-2013. Brazil, Turkey and the Republic of Korea are the third countries exhibiting the highest comparative advantages in the export of civilian firearms and ammunitions. Turkey is the country with the highest increase with its RCA more than doubling over the period.

Table 7 - RCA of the firearms and ammunitions industry for the EU28 and other major exporters between 2008 and 2013

RCA Index	2008	2009	2010	2011	2012	2013
Brazil	5.135	6.678	6.105	4.637	4.944	5.063
Canada	0.766	0.751	0.761	0.733	0.706	0.587
EU28	1.395	1.154	1.254	1.299	1.228	1.464
Israel	2.093	5.739	6.856	3.177	2.915	0.000
Japan	0.233	0.273	0.188	0.200	0.224	0.203
Norway	0.802	1.414	1.033	1.893	1.506	1.333
Rep. of Korea	1.139	0.897	1.026	0.853	1.537	1.458
Russia	0.383	0.371	0.240	0.364	0.397	0.299
Turkey	2.699	2.001	2.545	2.574	3.024	4.258
USA	1.412	1.393	1.456	1.696	1.477	1.259

Source: EY calculations based on UN Comtrade

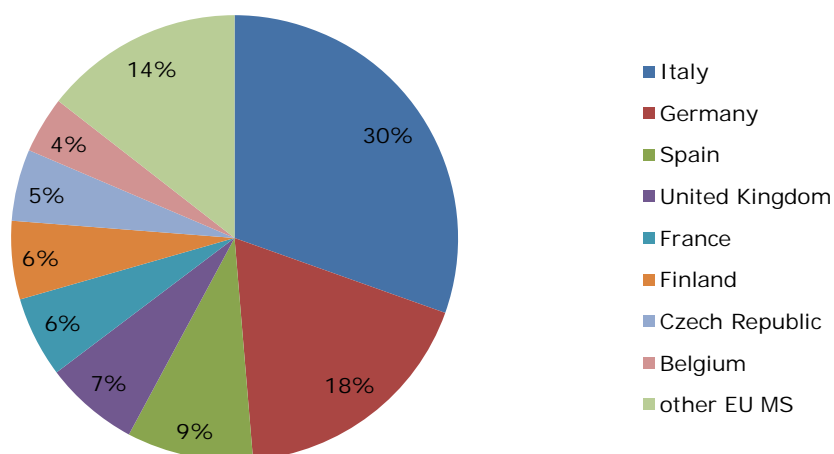
2.1.4 Trade and competitiveness at MS level

Five MS accounted for 70% of overall EU28 exports of civilian firearms and ammunitions in 2013 - Italy (30%), Germany (18%), Spain (9%), UK (7%) and France (6%) (see Figure below). Over the period 2005-2013, Italy saw its market share fall slightly from 37% to 30%, Germany experienced an increase from around 16% to 18%, the Spanish market share went up from 8% to 9%, the share of the UK fell from 8% to 7%, France remained quite stable around 6%, while Finland, the Czech Republic and Belgium experienced small changes in their market shares over the period (from 5% to 6%, from 4% to 5% and from 5% to 4% respectively).⁷⁰

⁶⁹ The RCA index, known also as the Balassa Index, is a measure of competitiveness. It is defined as: $(E_{ij} / E_{it}) / (E_{nj} / E_{nt})$, where: "E" is the export flow; "i" is the country; "n" is a set of countries; "j" is the commodity and "t" is a set of commodities. RCA values greater than 1 indicate that a given country has a comparative advantage in the production of a given product compared to a set of reference countries. For more information the reader can refer to: Balassa, B., (1965), 'Trade Liberalisation and 'Revealed Comparative Advantage', Manchester School of Economic and Social Studies (1965), Vol. 33, pp. 99–123.

⁷⁰ It is interesting to notice that all countries have exports above our estimate of production. For Germany and Italy figures are quite aligned as our estimates for production do not include ammunitions. For Spain, France and UK the difference can only be explained by considering if these countries re-export firearms imported from other countries.

Figure 7 – Shares of EU28 major firearms and ammunitions exporters in 2013



Source: Eurostat International Trade Database

The USA is the main export market for Italy, Germany and France: 40% of Italian exports, 20% of German exports and 27% of French exports were directed to the US in 2013. The second non-EU country absorbing a large share of individual MS exports is Russia, with 6% of Italian exports, 9% of German exports and 2% of UK exports. Turkey absorbs 3% of Italian exports and 4% of Spanish exports. As regards intra-EU trade, it is interesting to notice that major EU exporters tend to be important partners between themselves showing a relatively lively intra-EU market. For example in 2013 France absorbed 9% of Italian exports and at the same time Italy absorbed 21% of the French exports. Similarly, in 2013 7% of French exports were directed to Spain and 5% of Spanish exports were directed to France (see Table below).

Table 8 – Intra- and extra-EU markets of destination of the top 5 EU exporters (shares on total MS export) in 2005 and 2013

	2005		2013	
	EU	Non-EU	EU	Non-EU
France	Italy - 28%	USA - 4%	Italy - 21%	USA - 27%
	UK - 12%	Mali - 1%	UK - 12%	Mali - 0%
	Spain - 10%	Congo - 2%	Spain - 7%	Congo - 3%
Germany	France - 14%	USA - 9%	France - 9%	USA - 20%
	Austria - 6%	Russia - 10%	Austria - 8%	Russia - 9%
	UK - 7%	Switzerland - 6%	UK - 4%	Switzerland - 4%
Italy	France - 9%	USA - 38%	France - 9%	USA - 40%
	UK - 9%	Russia - 3%	UK - 7%	Russia - 6%
	Spain - 8%	Turkey - 2%	Spain - 4%	Turkey - 3%
Spain	UK - 13%	Ghana - 7%	UK - 15%	Ghana - 3%
	Portugal - 10%	Turkey - 3%	Portugal - 6%	Turkey - 4%
	France - 9%	Italy - 2%	France - 5%	Italy - 7%
UK	Italy - 1%	USA - 34%	Italy - 7%	USA - 29%
	Denmark 4%	Russia - 1%	Denmark 5%	Russia - 2%
	Germany - 4%	Switzerland - 3%	Germany - 3%	Switzerland - 2%

Source: Eurostat International Trade Database

As shown in the Table below, most EU exports are directed towards non-EU countries. As regards the top four countries their overall share of exports going to non-EU countries is: for Italy 68%, for Germany 55%, for Spain 77% and for the UK 69%. Some MS - Croatia, Hungary, Malta and Poland - have more than 90% of their export directed to non-EU countries. Countries with higher shares of exports directed to other MS tend to have a relatively small production of firearms and ammunition. In 2013 these countries are: Estonia (60%), Greece (87%), Lithuania (82%), Luxembourg (82%), Portugal (63%) and Slovenia (68%). Given the small production of firearms in these countries the share of firearms exported to EU countries can change substantially over time (e.g. for Luxembourg in 2005 it was 24% and passed to 98% in 2013).

At EU level, total export of civilian firearms and ammunition increased by 7.5% on average each year over the period 2005-2013. Export towards third countries have increased more than intra EU exports - respectively by 12% and by 3% on average each year. Furthermore, the relative share of exports towards third countries over total exports has increased, thus improving the EU28 trade balance.

Table 9 - Export of EU countries and its repartition between Intra-EU and Extra-EU

	EXPORT 2005			EXPORT 2013		
	Total € m	% intra	% extra	Total € m	% intra	% extra
Austria	10.45	48%	52%	27.2	49%	51%
Belgium	38.63	96%	4%	48.36	96%	4%
Bulgaria	-	-	-	-	-	-
Croatia	0.27	7%	93%	24.47	0%	100%
Cyprus	2.57	46%	54%	6.5	30%	70%
Czech Rep.	28.1	57%	43%	61.06	37%	63%
Denmark	3.26	56%	44%	6.35	51%	49%
Estonia	0.22	0%	100%	0.7	60%	40%
Finland	34.7	31%	69%	66.89	24%	76%
France	41.3	64%	36%	68.91	50%	50%
Germany	120.76	59%	41%	214.61	45%	55%
Greece	3.55	16%	84%	19.4	87%	13%
Hungary	0.21	100%	0%	0.16	6%	94%
Ireland	2.44	100%	0%	0.57	100%	0%
Italy	272.05	44%	56%	358.72	32%	68%
Latvia	-	-	-	1.18	18%	82%
Lithuania	1.11	11%	89%	5.77	82%	18%
Luxembourg	0.59	24%	76%	0.46	98%	2%
Malta	-	-	-	1.4	0%	100%
Netherlands	3.42	91%	9%	1.82	41%	59%
Poland	2.54	22%	78%	13.67	4%	96%
Portugal	19.41	67%	33%	23.46	63%	37%
Romania	-	-	-	-	-	-
Slovakia	14.2	89%	11%	4.74	15%	85%
Slovenia	-	-	-	4.05	68%	32%
Spain	59.44	32%	68%	107.6	23%	77%

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	EXPORT 2005			EXPORT 2013		
Sweden	17.36	49%	51%	28.39	35%	65%
United Kingdom	57.3	27%	73%	81.01	31%	69%
TOTAL EU28	733.88	50%	50%	1,177.47	38%	62%

Source: Eurostat International Trade Database

Most MS satisfy their demand for imported firearms and ammunitions within the internal market. The country with the highest share of firearms and ammunitions imports from third countries is Germany with 48% of its overall imports in 2013. Other countries with a relatively high share of imports from third countries are: Estonia with 39%, Belgium with 38%, Hungary with 37%, UK with 35% Spain with 33%, Czech Republic and Poland both with 30%. The rest of the MS have a share of imports from third countries below 30%.

At EU level, total imports of civilian firearms and ammunition increased by 4% on average each year over the period 2005-2013. Imports from third countries increased in a more pronounced way with respect to imports from EU MS - respectively by 5% and by 3% on average each year. The relative share of imports from third countries over total imports still remains lower than intra-EU imports.

Table 10 - Imports of EU countries and their distribution between Intra-EU and Extra-EU

	IMPORT 2005			IMPORT 2013		
	Total € m	% intra	% extra	Total € m	% intra	% extra
Austria	19.3	72%	28%	22.7	78%	22%
Belgium	20.3	28%	72%	37.1	62%	38%
Bulgaria	-	-	-	-	-	-
Croatia	2.1	82%	18%	3.6	72%	28%
Cyprus	3.3	87%	13%	4.7	91%	9%
Czech Rep.	4.3	84%	16%	10.9	70%	30%
Denmark	23.9	91%	9%	21.4	83%	17%
Estonia	1.6	40%	60%	4.8	61%	39%
Finland	17.3	62%	38%	13.0	85%	15%
France	62.3	89%	11%	92.7	86%	14%
Germany	54.6	60%	40%	101.9	52%	48%
Greece	19.0	87%	13%	6.7	83%	17%
Hungary	1.3	72%	28%	0.9	63%	37%
Ireland	5.3	88%	12%	3.3	86%	14%
Italy	40.4	78%	22%	54.8	77%	23%
Latvia	1.0	87%	13%	4.9	82%	18%
Lithuania	2.9	68%	32%	2.5	89%	11%
Luxembourg	2.6	89%	11%	3.0	89%	11%
Malta	0.8	96%	4%	1.5	71%	29%
Netherlands	4.5	37%	63%	29.5	83%	17%
Poland	14.2	61%	39%	19.8	70%	30%
Portugal	11.7	88%	12%	10.3	82%	18%
Romania	-	-	-	-	-	-
Slovakia	9.0	96%	4%	15.2	89%	11%

	IMPORT 2005		IMPORT 2013			
Slovenia	0.1	100%	0%	2.0	75%	25%
Spain	44.7	88%	12%	39.5	67%	33%
Sweden	14.0	85%	15%	20.0	75%	25%
United Kingdom	92.0	68%	32%	85.6	65%	35%
TOTAL EU28	472.3	74%	26%	612.4	72%	28%

Source: Eurostat International Trade Database

2.2 Key security aspects related to civilian firearms

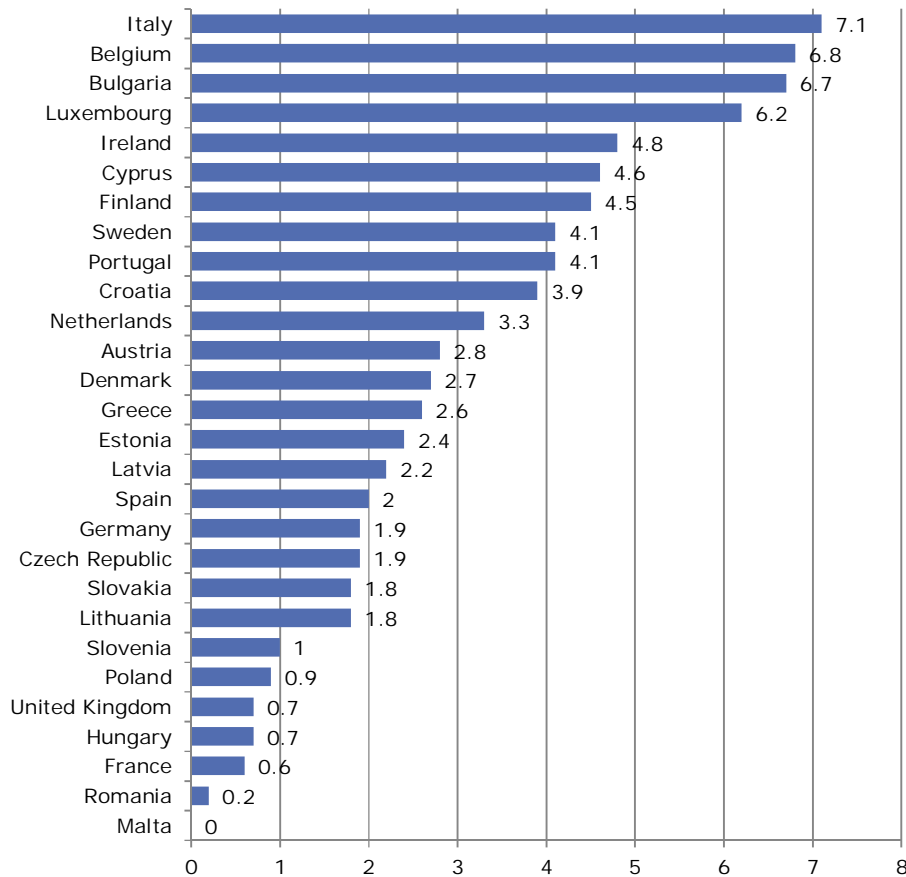
Firearms can entail a risk for citizens' security in several ways. Starting from the principle that the Directive was created to maintain a high level of security and protection against criminal acts, this evaluation is focused on criminal activity related to civilian firearms (as listed in Annex I of the Firearms Directive), i.e. their utilisation in criminal offences such as homicide, robbery, abduction, or to coerce and to intimidate, their illicit manufacturing and trafficking. Therefore, issues related to accidents and suicides are excluded from the scope of the analysis. We present below the main issues in terms of security that define the context of our study.

2.2.1 Security concerns

The criminal use of firearms caused over 10,000 homicides in the EU over the last decade.⁷¹ MS with the highest incidence of homicides by firearms are (see Figure below): Italy where 7.1 inhabitants per 1 million are killed every year by means of firearms, Belgium with 6.8 inhabitants per 1 million Bulgaria with 6.7 inhabitants per 1 million.

⁷¹ COM(2013) 716 final.

Figure 8 - Homicides by firearms (per 1 m inhabitants) per year



Source: COM(2013) 716

Within this context it is of major interest to understand the scale of criminal offences involving legally held firearms, as directly regulated by the Firearms Directive. A recent UNODC study argues that “the majority of civilian firearms are not misused and are owned for legitimate purposes”. The significant difference between global estimates on the number of civilian firearms owned (hundreds of millions) and annual firearm homicides (around 199,000 in 2010) supports this conclusion.⁷² Nonetheless, data reported by national Police Departments and Ministries of the Interior throughout the study, and cases described in secondary sources, also point at episodes of misuse of legally owned firearms.

Data collected do not allow to design a comprehensive overview in terms of both geographical coverage (i.e. only some MS provided information and not in all countries do the data allow for disaggregation by legal or illegal ownership) and trends (i.e. when available, data were provided mainly for 2013/2014). Nevertheless, according to the information collected, there are variations in the misuse of legally held weapons across MS. The box below presents an overview of the number and share of crimes committed with legally owned firearms in countries having provided such data.

⁷² UNODC, Global Study on Homicide, 2011.

Box 3- Focus on crimes committed with legally owned weapons

In Finland⁷³, there are annually about 20-30 cases of homicides committed with firearms, in less than 10 cases was the firearm legal. The UK reports that legally held firearms are “rarely” used in crime⁷⁴ whereas Slovenia⁷⁵ reports no offences by legally held firearms.

In Portugal⁷⁶, between 95-98% of weapons used in crime⁷⁷ are civilian firearms, either legally owned or legally owned but stolen and/or converted. In the Czech Republic⁷⁸ in 2013, of the identified weapons used in crime, legal firearms were used almost four times as often as illegal weapons (182 compared to 47), the majority being category D weapons (135 cases). In addition, the Czech Republic also reported 132 cases where the firearm was never identified. Similarly, in Romania⁷⁹ licit ownership of firearms in 2013 was reported in 160 cases while illicit ownership in 44, illicit trafficking in 101 and homicides in 8 cases. Between 1991 and 2014, Malta⁸⁰ had 57 homicides involving civilian firearms: out of the 39 solved cases, the majority referred to legally owned firearms.

In the Netherlands, the National Police reported that a very low number of crimes is committed with legally owned firearms, but the most shocking incident⁸¹ (6 people killed, 17 injured) was committed with two legally owned firearms. In Germany⁸², considering only the number of weapons seized on crime scenes, weapons requiring a license represented around 30% of all firearms in 2013, and approximately 5% of them were legally owned. In Sweden⁸³ most of the reported crimes (i.e. murder, manslaughter, and armed bank robbery) occurred between 2000 and 2010 involving weapons and that went to prosecution were committed with illegally held firearms⁸⁴. In Luxembourg the Police Grand-Ducale reported that all firearms used in homicides were illegally held.

⁷³ The Finnish National Police Board.

⁷⁴ The National Ballistics Intelligence Service (NABIS) has reported that less than 1% of legal owners of firearms in the UK commit crimes with those firearms.

⁷⁵ Ministry of the Interior.

⁷⁶ Polícia Judiciária.

⁷⁷ No data on the number of crimes involving firearms in Portugal have been provided. Figures from Gun Policy (<http://www.gunpolicy.org/firearms/region/portugal>) based on the WHO. 2014. ‘Inter-country Comparison of Mortality for Selected Cause of Death – Gun Homicide in Portugal.’ European Detailed Mortality Database (DMDB) report that annual deaths resulting from firearms in 2011 are 142, of which 38 from homicides.

⁷⁸ Ministry of Interior.

⁷⁹ General Inspectorate of Romanian Police.

⁸⁰ Malta Police Force.

⁸¹ On 9 April 2011, six people were killed by a gunman who entered the Ridderhof mall in Alphen aan den Rijn, Netherlands. Using a rifle, 24-year-old Tristan van der Vlis shot several people and then killed himself. He was a member of a shooting association and had a permit to carry five weapons. Source: <http://www.bbc.co.uk/news/world-europe-13024785>.

⁸² Federal Ministry of Interior.

⁸³ Stockholm School of Economics - Institute for Economic and Business History Research from Hagelin Björn. 2012. Skjutvapen använda i brott i Sverige 2000-2010.

⁸⁴ The study “Skjutvapen använda i brott i Sverige 2000-2010” covers only 3 types of crimes: murder, manslaughter and armed bank robbery, and the number refers to reported crimes during the period 2000-2010: murder and manslaughter 447, bank robberies 524 – in total 971 reported crimes (These 971 constitute about 10 % of the total number of reported crimes involving weapons during the period). 325 out of the 971 went to prosecution (court cases), but checking the cases further reduced the number to 291 (some crimes were committed abroad, some were committed before but reopened during the studied time period, etc.). This was further reduced to 117 murder weapons (some were used more than once, some crimes were committed with “inappropriate weapons” (that is, instruments not meant for killing... such as a captive bolt or some type of dummy)). Out of these 117 murder

Source: EY online survey and interviews 2014

In some MS (DE, EE, LU, NL, IT, SE, UK) a significant share of civilian firearms used in crimes are illegally held.

There are nearly half a million firearms inside the EU which have been registered as lost or stolen from the mid 90s (date of the implementation of the SIS) up to 2014⁸⁵, and which remain unaccounted for.⁸⁶ A share of these weapons is likely to be in criminal hands.

Illicit trafficking is another source of illegally held weapons in the EU. Trafficking is sometimes linked to the availability of weapons at the conclusion of armed conflicts⁸⁷, sometimes to the sale of weapons produced directly for the illegal market and sometimes to the sale of weapons diverted from the legal market.

European concern about illicit trafficking of weapons has peaked at various times in connection with conflicts in the EU neighbourhood. In the early 1990s, in spite of both EU and UN arms embargoes on former Yugoslavia, estimates suggest that Bosnia and Croatia imported weapons worth hundreds of million euro. The wars in the Balkans released large stockpiles of weapons, some finding their way into criminal hands. In many cases, these weapons were released from military stockpiles, such as the diffusion of the Yugoslav People's Army's weapons stockpile. Following the fall of the Albanian government in 1997, large-scale looting of its military stockpiles took place. According to some estimates, up to 643,220 small arms and light weapons were stolen; only about 15% of these were subsequently recovered. It is assumed that the local population was responsible for much of the looting, which resulted in the widespread diffusion of illicit weapons and ammunition. About 150,000 firearms are thought to have been smuggled across the border into Kosovo and sold to various rebel groups.⁸⁸ Similarly, after 2011 there has been a concern that weapons released from government stockpiles in Syria and Libya would be trafficked into Europe, to criminal gangs and to terrorist organizations. Ukraine is now another fast emerging risk zone for arms proliferation. In many cases these items would be classified as military weapons, and therefore prohibited for civilian ownership and possession in the EU.

Weapons trafficking in Europe is generally understood as small in scale. According to Europol: 'The weapons and Organised crime groups (OCGs) involved in weapons trafficking primarily originate from the Western Balkans and the former Soviet Union. Outlaw Motorcycle Gangs are also involved in the trafficking of weapons and have opened chapters in the Western Balkans. OCGs use existing criminal routes to traffic weapons. The main sources of illegal weapons are the reactivation of neutralised weapons; burglaries and thefts; embezzlement of legal arms, legal arms sold in the illegal market; firearms retired from service by army or police; the

weapons, 27 were legally owned. About half of these 27 were used by somebody else than the owner (family member, or after being reported stolen).

⁸⁵ This figure relates to cases that can go back to the setting of the system and that have never been closed.

⁸⁶ European Commission, 'Time for stronger EU action against gun violence', 21 Oct. 2013, http://europa.eu/rapid/press-release_IP-13-980_en.htm.

⁸⁷ Stockholm School of Economics - Institute for Economic and Business History Research; National Criminal Intelligence Service – Netherlands; An Garda Síochána – Ireland; a Finnish producer and a Finnish representative of firearms producers.

⁸⁸ Small Arms Survey, 'Handgun Ownership and Armed Violence in the Western Balkans', Armed Violence Issue Brief No 4, Sep. 2014, p. 3.

conversion of gas pistols.⁸⁹ In a joint intervention between the Swedish customs and the Swedish police during one month in 2012, the authorities seized 50 illegal weapons and 100 additional weapons from weapons dealers failing to provide all the necessary documentation. The police described the trafficking as 'ant trafficking', small scale smuggling, which is mainly sourced from the Western Balkans.⁹⁰ In August 2014, customs in Malmö, Sweden, confiscated seven pistols posted from different EU MS, including from Czech Republic, Germany and Slovakia, produced by Walther (Germany), Glock (Austria) and Zastava Arms (Serbia).⁹¹

In 2011 France, Germany, Italy, Poland, Spain, the United Kingdom and the United States reportedly met at ministerial level to discuss the risks posed by trafficking in weapons released by the conflict in Syria and how to reduce them. Governments in Africa, such as the Government of Niger, have drawn attention to the emergence of new, large-scale, smuggling routes in the area from Libya to West Africa along which many kinds of items—including arms, drugs, people and commercial goods—are now being moved.

In December 2013, French police arrested 45 people allegedly involved in smuggling military style weapons, ammunitions and firearms into France since 2009, mainly from the Balkans and Slovakia.⁹² In March 2014, 84 people were accused of carrying out 1,600 illegal online transactions of weapons from Central Europe, Austria and Germany.⁹³ Organisations linked to illicit firearms business have every incentive to involve different entities in different countries in trafficking as the cross-border element contributes to difficulties for law enforcement authorities who need to coordinate their response across different legal jurisdictions.

Legally owned civilian firearms may be diverted to the illegal market through different channels, such as:

- Theft or loss: firearms may be stolen during burglaries, both from apartments and from dealers' stocks;
- Failure to register firearms after changes in regulations: in case of changes of the national law, if the holders fail to fulfil the new requirements (e.g., registration of firearms previously free to circulate), they illegally hold a firearm. This was the case in Belgium following the 2006 legislative change or in Sweden after the amnesty period and France after the entry into force of the new regulatory framework in 2012. Another example concerns firearms that become illegal if a registration update is not performed or when a weapon is kept in a family without the proper authorisations⁹⁴;

⁸⁹ European Police Office (EUROPOL), *SOCTA 2013: EU Serious and Organized Crime Threat Assessment* (The Hague: EUROPOL, 2013), p. 31.

⁹⁰ 'Ökad efterfrågan på illegala vapen i Sverige', *Sveriges radio*, 30 Oct. 2012, <http://sverigesradio.se/sida/artikel.aspx?programid=83&artikel=5329137>

⁹¹ 'Flera pistolpaket fast i tullen', *Sydsvenskan*, 9 Aug. 2014, <http://www.sydsvenskan.se/malmo/flera-pistolpaket-fast-i-tullen/>

⁹² RFI, 'French police arrest 45 in arms trafficking raid', 2 Dec. 2013, <http://www.english.rfi.fr/europe/20131202-french-police-arrest-45-arms-trafficking-raid>.

⁹³ RFI, '84 arrested in France in crackdown over suspected arms trafficking', 18 Mar. 2014, <http://www.english.rfi.fr/europe/20140318-84-arrested-france-crackdown-suspected-arms-trafficking>.

⁹⁴ For example, in some countries (e.g. France or Belgium), there are firearms dating from the Second World War which have remained in families without either being deactivated or registered.

- Conversion/reactivation: alarm weapons, for example, can be purchased without a permit in one MS and may be transferred to another country where they are modified to live bullets. A variation of this type of activity is the reactivation of deactivated firearms.

Regarding theft or loss, from mid 90s up to October 2014⁹⁵ more than 449,000 stolen or lost firearms were recorded in the SIS II system⁹⁶, a number which is likely to be significantly underestimated, since only cases reported to the police are counted. In France the Police Department recorded a strong increase in the number of thefts (+25.2% between 2010 and 2012, passing from 2,441 to 3,057 stolen firearms in absolute figures). Another country where firearms theft is a concern is the Netherlands where, according to National Criminal Intelligence Service, there are approximately 300/400 stolen firearms per year from individuals and dealers. By contrast, in Poland and Sweden⁹⁷ MS competent authorities have reported only very rare cases.

The second issue relates to firearms originally legally held that become illegal after changes in legislation. Although it is difficult to assess the size of this illegal pool of weapons, it can be assumed, that in the majority of cases these firearms are not primarily used for criminal purposes (except in the case of family tragedies and homicides).⁹⁸ The use of amnesties to allow owners to register unlicensed firearms, perhaps providing compensation as an additional incentive to register them, has been suggested as a policy option to reduce this pool of illegal firearms by MS competent authorities in Belgium and Sweden.

As an example, in Belgium the amendment of the Arms Law entailed an amnesty period from 2006 to October 2008 during which period all owners of firearms could hand in their guns or declare them. All firearms hence under the free trade regime prior to 2006 had to be declared and to obtain authorisation, providing a legitimate reason for gun ownership. During that period 125,000 firearms were given to the police and destroyed. Currently⁹⁹, all those firearms previously belonging to the so-called "grey zone" - bought legally before 2006 but unknown - are either authorised or illegal. A large number of them are illegal - a minimum of 200,000 firearms based on rough estimations. These firearms have generally never been used for hunting or sporting, and are kept illegally.

Finally, another channel of diversion of firearms from the legal to the illegal market is the conversion of alarm weapons and the reactivation of deactivated firearms into

⁹⁵ According to Article 18 of the Regulation (EC) No 1987/2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II), alerts recorded at central level shall be deleted at the latest three years after their creation. <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006R1987&from=EN>

⁹⁶ Schengen Information System II is an information system that allows national border control, customs and police authorities responsible for checks at the external Schengen border as well as within the Schengen Area to circulate alerts about wanted or missing people and objects, such as firearms.

⁹⁷ At this regard it is worth mentioning that Sweden, as well as DE, DK, EE, EL, ES, FR, HR, IE, LT, LV, MT, NL, RO, SK, SI, and UK has adopted a very restrictive legislation on civilian gun ownership that requires gun owners to store their firearms in approved gun safes in order to prevent legal guns from ending up in the hands of criminals through theft. A recent study (Safe Storage and Thefts of Firearms in Sweden: an empirical study, Erik Lakomaa, Stockholm School of economics, 2012) supports the hypothesis that the Swedish storage rules during the entire period 1995-2010 have met the requirements as they prevented legal weapons through theft ending up in the hands of people who intend to use them for criminal activity.

⁹⁸ As illustrated by the "Study to support an Impact Assessment on Options for Combatting Illicit Firearms Trafficking in the EU" carried out by CSES under approval of the DG HOME, May 2014.

⁹⁹ The process has only recently been completed. Substantial administrative backlogs due to under-staffing have caused delays.

firearms able to shoot live ammunitions. In this regard, documented cases and various concerns raised by MS representatives throughout the study highlight the need for action.

In general terms, there may be a risk that deactivated weapons, alarm/signal weapons or replicas that closely resemble a live firearm can be used to frighten or intimidate, but the main security concerns are connected to the risk of conversion to fire a live round. The results of a previous study¹⁰⁰ confirm that converted alarm and signal weapons represent or have represented an issue in several MS. The issues related to reactivation of deactivated firearms appear to be significantly more limited, although security concerns, especially on the risks attached to deactivated firearms, were expressed by several MS authorities, or were found through secondary sources.

Conversion of alarm weapons

Conversion of originally blank firing weapons (e.g., gas and alarm pistols) to fire live ammunition recently emerged as an issue in several MS (CY, DK, ES, FR, IE, IT, LT, LU, NL, PT, RO, SE, SK, UK) involving both weapons originating from outside and inside the EU.

There are various factors behind the criminal activity linked to converted alarm weapons:

- alarm weapons can be more easily obtained compared to firearms. In several MS and third countries (such as DE¹⁰¹, ES, FR, IT, and Turkey) they can be acquired without a license;
- these weapons can be cheap compared to real/traditional firearms. According to data collected in a previous study¹⁰², basic models can be purchased for 30-50 Euros¹⁰³ with the price varying significantly according to the models;
- some cases suggest that converting alarm weapons may be also a profitable business for criminals. Prior to 2011, Russian-made Baikal gas pistols could be freely purchased in Lithuania for 100 Euros. These were then converted into firearms, and smuggled into the UK where they were sold for as much as 2.000 Pounds¹⁰⁴. This weapon has been called "the British teenage gang members' weapon of choice".¹⁰⁵

The box below illustrates evidence of criminal offences which have occurred across the EU.

Box 4 – Cases of conversion of alarm weapons

¹⁰⁰ Study to support an Impact Assessment on a possible initiative related to improving rules on deactivation, destruction and marking procedures of firearms in the EU, as well as on alarm weapons and replicas, EY and Sipri, June 2014.

¹⁰¹ According to Chapter 2, paragraph 1.3 of the Weapons Act, "weapons to fire blanks or warning shots, irritants or signals which comply with the approved design in accordance with Section 8 of the Proof Testing Act and carry the approval mark" require a licence to be carried ("Kleiner Waffenschein").

¹⁰² Study to support an Impact Assessment on a possible initiative related to improving rules on deactivation, destruction and marking procedures of firearms in the EU, as well as on alarm weapons and replicas, EY and Sipri, June 2014.

¹⁰³ The prices of firearms vary enormously. For licensed weapons, the license alone for a handgun would be more than 30-50 Euro (e.g. in Sweden a firearms license is about 80 euro).

¹⁰⁴ Interview with Lithuanian police forensic science centre, 7 Jan. 2014 (Impact assessment study on deactivation, marking, alarm weapons and replicas, EY and Sipri, June 2014).

¹⁰⁵ Cobain, I. and Connolly, K., 'Lithuanian vet who put hundreds of guns on the streets of London and Manchester', *The Guardian*, 24 Feb. 2007.

Between 2002 and 2006 the converted alarm weapons' threat emerged in the Netherlands, with the seizing by the Dutch police of around a thousand of converted alarm weapons, representing 10% of the total number of firearms that were seized in the country. Moreover, around 6% of all shootings that took place in the MS between 2004 and 2008 could be linked to alarm weapons.¹⁰⁶ These data come from a research project¹⁰⁷ on the trade in and use of converted alarm weapons, resulting in a clear and detailed overview of the different steps in the logistical process from the manufacturer to the end-user of converted alarm weapons. The study demonstrated that converted firearms were originally blank firing weapons, produced and converted in countries in the southern Europe (produced mainly in Italy and Turkey, and then converted in Portugal), subsequently smuggled to the Netherlands through transnational social networks¹⁰⁸, and sold to the end-users in the Netherlands.

The use of converted alarm weapons, and namely of gas pistols, has been a big problem also in Lithuania, which in 2011 approved a new regulation including gas pistols within the scope of the national firearms legislation and thus applying to alarm weapons all the rules for purchase, possession and trade applied to firearms. The Lithuanian market of alarm weapons was particularly relevant (i.e., in 2010 and 2011 respectively 7,000 and 6,000 gas weapons were sold), as well as the phenomenon of converted alarm weapons (i.e., from 2009 to 2013, converted alarm pistols made 56% of the total firearms examined by Lithuanian Police Forensic Science Centre, and specifically 423 converted alarm weapons vs. 334 real firearms). Also crimes (murders, severe health impairment, robbery, extortion) committed by using converted alarm pistols were threatening, accounting for 37% (in 2009) and 29% (in 2013) of all the crimes committed by using firearms.

Following the entry into force of the new regulation, the Lithuanian market for alarm pistols dropped, with only 691 pistols sold in 2012, and there has been a reduced advantage for criminals to buy converted alarm weapons rather than illegal firearms.

In the United Kingdom, during 2004/05, 52% of all recorded gun crime offences involved air weapons (as the principal weapon involved in the offence)¹⁰⁹, and 15% involved imitations of firearms.¹¹⁰ Between January 2007 and March 2010, there were 179 recoveries of converted Olympic 380 BBM revolvers in England and Wales¹¹¹, a threat that prompted the government to approve a ban on Bruni Olympic 380 BBM in 2010. Also in the United Kingdom, a man was found guilty of conspiracy to convert firearms. Specifically, he converted a significant number of blank-firing MAC-10 firearms into real weapons with relative ease using tools available in local hardware stores or from the internet. Alarm weapons that he converted were linked to more than 50 shootings, including at least eight murders.¹¹²

¹⁰⁶ According to the National Collection Bullets and Cartridges database, 1,366 shootings took place in the Netherlands between 2004 and 2008. Source: de Vries, M.S., "Converted Firearms: A Transnational Problem with Local Harm"- European Journal on criminal policy and research, published on-line in 2011.

¹⁰⁷ de Vries, M.S., "Converted Firearms: A Transnational Problem with Local Harm"- European journal on criminal policy and research, published on-line in 2011.

¹⁰⁸ Based on police investigations and intelligence, Cape Verdean and Turkish criminals play a significant role in the trade in converted firearms, thanks to a wide social network in multiple European countries, which seemed to facilitate their criminal activities concerning converted firearms.

¹⁰⁹ Only 10% of this crime implied a serious injury to the victim.

¹¹⁰ Hales, G., Lewis, C. and Silverstone, D. (2006). "Gun Crime: the market in and use of illegal firearms". London: Home Office Research Study.

¹¹¹ http://www.nabis.police.uk/user_uploads/bulletin_04_2011_feb.pdf

¹¹² UK, 2008 - http://news.bbc.co.uk/2/hi/uk_news/england/berkshire/7585437.stm

The Spanish authorities in 2011 expressed concerns about the increasing incidence of alarm weapons among firearms subject to forensic investigation¹¹³, the easy conversion of some models of alarm weapons (especially alarm weapons imported from Turkey), and their accessibility in the market. In Spain alarm weapons can be acquired without any permit or document (except a document attesting the minimum age, i.e. 18 years of age or older), and no prohibition for persons with criminal records is applied.¹¹⁴

In general, a number of similar cases, involving different MS, can be mentioned: in 2005, the Portuguese police closed down several workshops, located on boundaries with Spain, where alarm weapons were imported from outside Europe and converted into firearms¹¹⁵; in 2012, in Italy a large number of illegal signal flare pistols have been detected in the Port of Naples¹¹⁶; there is evidence on the existence of several organised criminal groups operating in the western Balkans committed to convert and illicitly trade Turkish made pistols, sold in the black markets of Western European MS, including countries such as Denmark¹¹⁷ and Sweden.¹¹⁸

Source: EY elaboration on secondary sources

The risk of conversion of alarm weapons is likely to acquire a bigger scale in the future, taking into account the high number of Turkish alarm weapons entering the EU (see Box 2), which appear to be more easily convertible than the ones produced in the EU. Cases of converted alarm weapons originating from Turkey have been reported by national Police Departments for example in the Netherlands and in France.

¹¹³ In 2011, 44 alarm weapons were subject to ballistic investigations, out of 222 firearms investigated. 11 of the 44 alarm weapons had been subject to modifications (conversion) – Data provided by the Ministry of Interior (Scientific Policies) to the European Commission.

¹¹⁴ A specific investigation of the Ministry of Interior (Scientific Policies) in a Spanish city found that 16% of persons acquiring alarm weapons in that city had past criminal records, especially crimes against property, such as robbery (note from the Spanish Ministry of Interior to the European Commission).

¹¹⁵ Moreover in 2006, alarm and gas pistols have been banned in Portugal.

¹¹⁶ Note of the Director of the International Police Cooperation Service of the Italian Ministry of Interior for the EFE workgroup.

¹¹⁷ Arms trafficking in the Western Balkans (2012) by Pole de Zagreb. According to the study, an organisation made up of seven people involved in arms manufacturing and trafficking was dismantled in Macedonia in March 2011. This group obtained supplies of Turkish-made pistols intended for sound or visual signalling that were to be sent to countries in the region and in Western Europe, including to Denmark where they were resold for between 300 and 500 euros each. In addition to this particular case, the vast majority of pistols seized in Macedonia are thought to be Turkish-made and locally converted.

¹¹⁸ <http://www.presseurop.eu/en/content/article/397061-cheap-guns-boom-europe>.

Deactivated firearms: reactivation and trade in firearms parts¹¹⁹

Deactivated firearms became a threat in the years following the end of the Balkan civil war, when a considerable number of firearms were deactivated and part of them pulled out of the legal market and the tracing system.

Cases of re-activation and trafficking of deactivated firearms have been encountered by police forces throughout the EU (BE¹²⁰, FI, FR, IE, IT, NL, SE, SK).¹²¹

Different types of deactivation standards and techniques in use at national level (see par. 3.5) are at the origin of the trade in parts of firearms that have not been permanently deactivated and can be used to build or reactivate a firearm. This phenomenon has been reported by 6 MS (EE, FR, NL, RO, SE, UK).

Box 5 – Evidence of illicit trade of firearms parts

The National Criminal Intelligence Service in the Netherlands reported that it is possible to buy from the USA¹²² 80% finished firearms with the instructions on how to complete the work, and to search for the missing steel barrel in some EU MS. According to the Swedish Police, the customs at Arlanda Airport in Stockholm detected a significant number of firearms parts sent by mail, particularly from the USA and the Balkan countries.

The French Judicial Police reported a number of cases of reactivation of deactivated firearms thanks to the use of essential components bought from other MS where the deactivation affected different parts or where the deactivation procedures were not permanent.¹²³

In the United Kingdom the National Ballistics Intelligence Service (NABIS) reported occasional unlicensed imports of firearms parts and occasional unlicensed manufacture of parts.

The Estonian Ministry of Interior reported that in July 2009 an individual ordered from

¹¹⁹ For the purposes of the Firearms Directive, “part” shall mean any element or replacement element specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound caused by firing a firearm (art. 1a). “Essential component” shall mean the breach closing mechanism, the chamber and the barrel of a firearm which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted (art. 1b). According to the UNFP “parts and components” shall mean any element or replacement element specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound caused by firing a firearm” (art. 3).

¹²⁰ While strict rules apply in Belgium with the correct implementation being verified by the National Proof House, the lack of harmonisation on deactivation rules in Europe is currently a problem in Belgium. Its importance is further aggravated due to the First World War commemorations, during which ceremonies with an international scope will be held and hence deactivated firearms from other countries will enter the territory of Belgium.

¹²¹ One of the most recent cases is of an Irish engineer who has been accused of firearms reactivation. Source: <http://www.bbc.co.uk/news/uk-northern-ireland-21858909>. No evidence is reported on the origin of the deactivated firearms. Trafficking of deactivated firearms aimed at illegal reactivation has also been detected in Finland, where until two years ago the reactivation of deactivated firearms represented an issue of concern. Changes introduced in 2011 in Finnish rules and requirements for firearms deactivation put the phenomenon under control. Interview with a representative of the national competent authority (Study to support an Impact Assessment on a possible initiative related to improving rules on deactivation, destruction and marking procedures of firearms in the EU, as well as on alarm weapons and replicas, EY and Sipri, June 2014).

¹²² The Small Arms Survey has further confirmed the existence of evidence of firearms parts being bought online in US and sent to Europe. As this issue will be the object of a future publication, no data has been disclosed for the moment.

¹²³ Source: EY survey and « Note des Autorités françaises sur les problèmes juridiques liés aux définitions et approximations contenues dans la Directive Européenne 91/477/CE » – 18 June 2014.

Germany 6 essential components of a firearm, which were discovered by customs authorities during the examination of postal items. It was established with the investigation that before the same person had illegally transported, from an unidentified country, 8 firearms which were in working order. It was also ascertained that this individual had illegally transported from an unidentified country 23 firearms, which were not properly rendered incapable of firing.

In Romania¹²⁴ German citizens introduced hunting rifle parts for further selling to Romanian citizens in order to be used for poaching.

Source: EY online survey 2014

The risk of the illegal trade in firearms parts is further increased by differences in marking standards across MS (see also par.3.4.1) which allow circulation across the EU of unmarked firearms essential components and by the existence of cases where the mark has been altered or deleted by criminals as reported in the survey by some MS representatives (BE, EE, FI, HU, IE, PL, RO, UK¹²⁵).

Another security concern relates to the appropriateness of procedures implemented by the authorities entitled to carry out and/or to certify the firearms' deactivation/destruction. The deactivation of firearms may be carried out by authorised individuals holding a license or permit issued by the police (including professional dealers, repairers, manufactures). The lack of central control left space in some cases for criminal activity, with deactivations not properly carried out and the introduction of illegal firearms in the market.¹²⁶ It happened in Sweden: in the past, there was a limited number of cases when Swedish "destroyed" firearms were found in the market and used in crimes elsewhere in Europe. During an interview conducted in December 2013¹²⁷, the Swedish police mentioned a crime in the Netherlands where a Swedish destroyed weapon was involved in a crime investigation. As a way to mitigate the risk of theft or diversion, Sweden centralised all weapons' destruction to be carried out by the Police. Since this monopoly has been introduced, the Police have not encountered any diverted destroyed weapons.¹²⁸

A particular concern has been raised by representatives of the Italian firearms industry¹²⁹ and the Italian Proof House for the conversion of demilitarised firearms¹³⁰ into functioning military firearms considering the high availability of military firearms from the East of Europe, and the possibility to find suppliers of firearms parts in countries including Belgium, Slovenia, Bulgaria and Romania. There are cases in which demilitarised firearms were reconverted into

¹²⁴ General Inspectorate of Romanian Police.

¹²⁵ NABIS records show the recovery of 8,510 firearms of which 316 had the serial number erased by various means.

¹²⁶ The interviews in Italy reported the emergence of this issue in the MS in the '90s.

¹²⁷ Interview performed within the Impact assessment study on deactivation, destruction and marking procedures of firearms in the EU, as well as on alarm weapons and replicas, EY and Sipri, June 2014.

¹²⁸ Interview with national authorities (Study to support an Impact Assessment on a possible initiative related to improving rules on deactivation, destruction and marking procedures of firearms in the EU, as well as on alarm weapons and replicas, EY and Sipri, June 2014).

¹²⁹ Source: Impact assessment study on deactivation, destruction and marking procedures of firearms in the EU, as well as on alarm weapons and replicas, EY and Sipri, June 2014.

¹³⁰ Demilitarisation procedures apply to military weapons. To demilitarise military equipment is to destroy its inherent military offensive or defence capability. This process is linked to the decisions of Governments to reduce massive inventory of surplus military equipment by making such equipment available to civilians. The demilitarisation of military equipment is an important issue today as failures in enforcement, may bring potentially harmful weaponry and parts into the hands of private citizens, and criminals.

military firearms and used for criminal offences.¹³¹ Italian representatives suggested a slight change in the Directive's categories¹³² to prohibit demilitarised firearms while allowing their ownership to collectors¹³³ under specific conditions.

Other security concerns

Other security concerns relate to the conversion of semi-automatic firearms into automatic firearms and the use of antique weapons for criminal purposes.

Some semi-automatic firearms can be transformed into automatic firearms and thus represent a real threat to security¹³⁴, as stated by representatives from 2 MS (FI, SE), with the process of conversion being straightforward in some cases, like that of a Glock semi-automatic pistol.¹³⁵ The same happens for certain semi-automatic rifles, with online demonstrations to convert from semi-automatic to automatic in roughly one minute.¹³⁶

Conversion kits to transform semi-automatic weapons into automatic weapons quickly and easily and the knowledge on how to use these kits are now available and, if not properly managed, risk becoming a serious security concern. Nonetheless, no specific evidence that converted semi-automatic weapons are used in crimes was collected during this study to further support this concern.

Concerns in relation to antique weapons were raised by representatives of 3 MS (FR, LT and UK). Evidence in this regard is limited. In the United Kingdom, the National Ballistics Intelligence Service reported a rise in the use of so-called "antique" pistols and revolvers (some of them dating back as far as the First World War and even the American Civil War) by criminals who find that access to new weapons smuggled into Britain is narrowing. The rise in burglaries of gun collections, including the theft in 2013 summer of 26 deactivated pistols in Suffolk, further increased the concern that old weapons are getting into the wrong hands.¹³⁷ Enquires seem to reveal that these guns are brought from Europe, where they are easily and

¹³¹ Three civilians have been killed and one has been injured in a shootout in Istres, north-west of Marseille in April 2013 by a 19-year-old man using a demilitarised Kalashnikov he bought on the internet and he reconverted into a military firearm. Source: <http://www.lefigaro.fr/actualite-france/2013/04/25/01016-20130425ARTFIG00729-fusillade-a-istres-la-piste-d-un-desequilibre.php>.

¹³² Reformulate category B5 and B7 to make demilitarised firearms forbidden, and specifically: add firearms which resemble to military firearms in cat. B7; add demilitarised firearms in cat. A; and add firearms which resemble to military firearms cat. B5. A provision stating that collectors may own demilitarised firearms may be included specifying that they should be entitled, they should not use them and that they engage themselves to keep the firearms safe.

¹³³ There are 300,000 firearms collectors in Europe and 95% of them are collectors of military firearms.

¹³⁴ According to Finland: "The problem is that in the market there are semi-automatic firearms which through very minor modification can be converted to shoot automatic fire. There is no definition neither in the directive nor in the national legislation for defining when a semiautomatic firearm shall be deemed as automatic firearm due the possibility to convert it to shoot automatic fire." This view is shared by Swedish law enforcement.

¹³⁵ According to the US Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), for a Glock semi-automatic pistol 'conversion is fast and simple requiring no technical expertise. Conversion requires removal of the original polymer slide cover plate and replacing it with the conversion device, typically made of metal. By switching these plates, which takes less than 60 seconds, the conversion is complete. Conversion of a Glock pistol will result in a rate of fire of approximately 1200 rounds per minute. Source: <https://www.atf.gov/firearms/faq/firearms-technology.html>

¹³⁶ <https://www.youtube.com/watch?v=sQMruhGF4Fs>

¹³⁷ <http://www.independent.co.uk/news/uk/crime/still-lethal-aged-100-uk-gangs-load-up-on-antique-guns--with-no-registration-required-9054533.html>

legally bought at antique arms fairs. Police say they are also being traded in the UK on the internet, with gang members receiving them by the post.¹³⁸

2.2.2 Emerging issues

New technologies such as 3D printing and new sales channels such as internet, proved to be an emerging issue that should be adequately monitored at EU level given the potential risks they can create in the future.

Representatives from 11 MS (BE, CY, DE, ES, FR, IE, LT, LV, NL, PT, UK) consider that 3D printing techniques and internet sales pose or will likely pose security threats to the EU firearms market. By contrast, the majority of industry representatives¹³⁹ do not consider 3D printing as a major concern as compared to internet sales.

Advancements in 3D printing techniques have recently begun to be a concern for EU police officers.¹⁴⁰ Indeed, 3D printing of firearms could be a threat to security because of the ease with which firearms can be produced and their efficiency in shooting. A professional 3D printer can be purchased with no authorisation and may generate all the parts of a weapon or complete weapons made of polymers, but also of metal parts. Nonetheless, at the moment, available technologies seem to be too expensive and not precise enough to represent a real alternative source of supply for the illegal market. In the near future, the development of these technologies and the improvement of 3D printing techniques are expected to pose new challenges regarding control on the acquisition of weapons, traceability, and law enforcement activities. These challenges cannot be ignored by the legislative framework because technology can represent a new channel for procurement and manufacturing of weapons undermining traditional methods for tracing and marking (with the need for adapting marking techniques to new materials).

Although, as mentioned above, several MS representatives agree that 3D printing techniques are an emerging threat, they think that no immediate legislative action is required but that continuous monitoring of the evolution of this technology is necessary to progressively define the most appropriate policy option.

As for the use of the internet as a sales channel for firearms, EU MS may authorise the sale of firearms through distance communications, including the Internet, making the transaction subject to the rules of Directive 91/477/EEC and to controls on the acquisition of firearms by individuals. Nonetheless, these requirements are not always respected and the online sale of illegal weapons/essential parts of weapons has been an issue worldwide for some time now, with an increasing number of cases of firearms' internet sales reported by newspapers and an emerging challenge for law enforcement authorities. The threat related to weapons (or weapon parts) being purchased via the Internet and delivered by post for assembly at a later stage was already mentioned in the Europol 2005 EU Organised Crime Report¹⁴¹.

¹³⁸ <http://www.standard.co.uk/news/crime/gangs-use-antique-guns-loophole-to-import-deadly-weapons-into-london-9267108.html>

¹³⁹ According to 6 out of 9 producers and to 11 out of 11 representatives of firearms producers or dealers responding to the answer (EY online survey).

¹⁴⁰ In May 2013 the instructions for making the Liberator have been made freely downloadable on line. Within two days the blueprints were downloaded over 100,000 times, before the US State Department ordered their removal. Several law enforcement agencies are working to test the feasibility of firearms 3D printing and the potential threat linked to them, with conflicting evidence.

¹⁴¹ Europol 2005 EU Organised Crime Report – Public version, 13788/05 CRIMORG 117.

The threat related to weapons (or weapon parts) being purchased via the Internet and delivered by post for assembly at a later stage has been highlighted by representatives of 3 MS authorities during this study (ES, PL, SE). No comprehensive statistics are available on this issue as controls are normally not systematic and there is no system for the detection of internet offences.

Box 6 – Cases of illegal use of internet as a sales channel for firearms

A research centre specialized in criminal studies reported that the “hidden” part of the web, accessible through the software Tor (free software for enabling online anonymity and censorship resistance), is filled with a number of websites offering a range of firearms that may be purchased with no further authorisation. An example is “The Armory”, a platform for the online firearms black market that was forced to shut down in April 2013 after a long period of investigation. Like “The Armory”, there are still a lot of websites serving the black market for weapons. Probably, some of them are fake pages trying to make money through fraud, but at least a part of this dark net represents a threat to security.

As an example, in 2007 the Spanish police arrested three individuals who illegally imported parts to assemble firearms and war weapons. These individuals were described as arms collectors who acquired weapons illegally through the Internet to trade among guns enthusiasts. Spanish police came across them in an Internet forum where they convened to purchase weapons' parts, shipped from the United States and other European countries in packages which in most cases did not include the required content declarations¹⁴².

In 2006, in the United Kingdom, police and military officials detained individuals trading online weapons banned in that country. Moreover, the German police reported that the youth accused of the Emsdetten school shooting in 2006 had purchased the weapon illegally on a local Internet portal¹⁴³. Other countries and regions have faced similar situations¹⁴⁴.

3 Evidence on the Directive's provisions

This chapter presents the evidence base of the study.

It is structured according to the Firearms Directive provisions and includes the key issues of the comparative legal analysis conducted on the national laws implementing the Directive (see Annex “Legal analysis: national comparative tables” for an extensive presentation of all supporting information) and the stakeholders' perception as gathered through the online survey, interviews and case studies.

3.1 *Categories*

The Firearms Directive has four categories of civilian firearms, which range from A (banned) to D (not subject to requirements, unless MS decide to establish more stringent rules) depending on the level of restriction on acquisition and possession. The nature of the Directive (which

¹⁴² Police throughout Europe Fight the Illegal Sale of Weapons Online, Internet Business Law Services (http://www.ibls.com/internet_law_news_portal_view.aspx?s=latestnews&id=1689). Concerning the persons involved, two of them have been sent to prison, while none has been linked to organized crime or terrorist organizations.

¹⁴³ According to Spiegel online, 20. November 2006 (<http://www.spiegel.de/panorama/justiz/emsdetten-amoklaeufer-toetete-sich-mit-schuss-in-den-mund-a-449855.html>) the perpetrator purchased the percussion rifle from an online weapons dealer and the dealer confirmed that perpetrator had participated in three online auctions during the two months prior to the attack.

¹⁴⁴ Police throughout Europe Fight the Illegal Sale of Weapons Online, Internet Business Law Services (http://www.ibls.com/internet_law_news_portal_view.aspx?s=latestnews&id=1689).

provides only minimum standards) means that 'the Member States may draw stricter distinctions in their national legislation by, for example, removing Category C or D, or by placing one or other specific firearms in a higher category for political or safety reasons or in line with their hunting traditions'. The amended Directive did not introduce any changes to the classification.

The logic of classification is to sort weapons according to how dangerous they are, with the most dangerous being prohibited for civilian ownership, possession and use and the least dangerous being lightly regulated.

The national classification systems should at least reflect the minimum security standards set by the Directive, but each MS can, and does, reach its own opinion on how classification should be organised in detail. Therefore, the same weapon may be prohibited in one MS but permitted in another, subject to authorisation.

The categories laid out in the Directive are technical. However, from the information returned in the survey, and from the analysis of national legislation, it is clear that in the classification of firearms at national level, authorities sometimes combine technical specifications with other factors.

- Technical specifications. Factors such as the physical size, firing mechanism, calibre, muzzle velocity, and the hardness or softness of the metal used in construction are elements in classification;
- End-use. The intention of the owner and user of a firearm are a factor in classification. Members of sporting federations, collectors, private security firms, members of the public seeking firearms for personal protection, individuals using guns for vermin control and hunters of different kinds will be treated differently in the licensing system;
- End-user. There is a differentiation between civilian end-users and military end-users in the system of classification, so that an identical firearm may be regulated differently depending on whether or not it is owned by an authorised state authority—such as the military or a police force.

A central element of regulation is to judge whether or not there is good cause for an individual to own a firearm, and the technical specifications of the weapon alone will not be sufficient to make that determination. However, the inclusion of a range of factors into the classification may result in lack of consistency.

To illustrate, in Austria firearms used for hunting and sport may be classified under prohibited weapons if they have certain technical characteristics — if they can be folded or telescoped for example. In this case a MS has decided that a weapon normally subject to authorisation should be prohibited because a particular characteristic (making it easier to conceal) increases the level of danger associated with it.

The identity of the end-user can be an important factor in classification. In Sweden, for example, more than 2,000 automatic weapons are legally in the possession of private citizens, even though automatic weapons are banned under the EU Directive. These private citizens participate in the Home Guard — meaning that they receive military training and would be called upon to serve alongside the Swedish military in a crisis or war. Although these weapons are in the hands of private citizens, they are classified as military weapons and therefore beyond the scope of the Firearms Directive.

Large variations in the approach taken towards classification at national level could be a problem at European level. A person may be in legal possession of a firearm under the laws of her or his own country, but in violation of the laws and regulations of the country to which she or he has travelled. As information on national firearms' categorisation and related implementing rules at national level is not always accessible to interested parties, it may

happen, for instance, that a hunter willing to go to an MS where a specific firearm is allowed is not aware that he/she should ask for a permit to pass some transit MS where such a firearm is subject to a stricter regulation.

The analysis of the use of EU categories by MS through the answers provided to the online survey appears to be limited by a number of considerations. First, the multiple meaning attributed by MS to the term “category” which has been introduced in the Firearms Directive to identify a specific regulatory regime to be applied to a list of firearms taking into account their level of danger. MS often refer to categories to identify the different types of firearms as classified in their national law (e.g., 12 categories in Finland, 22 in Portugal) independently of the specific regime to be applied. Moreover, in some MS (CY, CZ, DE, DK, FR, HR, HU, IE, LT, LV, PT, RO, SE, SI, SK) the EU categories are included in the national law but they do not always correspond to the specific regimes established by the Directive (e.g., in Germany single-shot long firearms with smooth-bore barrels are category D firearms, consistently with the Directive, but subject to license requirements).

It should also be noted that in the United Kingdom, Portugal and Finland, different national stakeholders reported different responses in the survey. This may reflect different approaches to describing categories in national laws. For example, the UK can be said to have only two categories of firearms: those which are prohibited and those which are legal provided a firearm certificate has been issued. However, each of these two categories has multiple sub-categories, and in other MS each of those sub-categories might be treated as a separate category in its own right. This indicates that within national legislation there can be room for interpretation about how to classify firearms, and the choices made by MS complicates the task of cross-country comparison.

All these aspects, together with the fact that, internally, MS continue to use their own classification referring to ABCD categories mainly for internal market exchanges, deserve a deeper analysis.

To overcome the limits mentioned before, we performed a comparative analysis of national legislations showing that there is a significant level of differentiation in the regulatory regimes applied to firearms at national level. 15 MS (BG, CY, EE, EL, ES, FI, HR, HU, IE, LU, LV, NL, PL, SE, UK) refer to only two categories (firearms forbidden and under authorisation), 6 MS (BE, DE, IT, LT, MT, PT) to three categories, while only 7 MS (AT, CZ, DK, FR, RO, SI, SK) adopt the four categories set out in Annex I of the Firearms Directive including a category D for firearms (not subject to requirements other than the registration foreseen for all firearms). This means that the majority of MS (21 out of 28) adopt more stringent criteria than those foreseen by the Directive and that the same type of firearm may be subject to different regimes across MS.

In addition, also weapons normally outside the scope of the Firearms Directive (i.e., alarm weapons “that can be used for the stated purpose only”, deactivated firearms “that have been rendered permanently unfit for use by deactivation”¹⁴⁵, and antique weapons) are treated differently across MS and sometimes considered firearms.

Regarding alarm weapons (see also Box 2), they are excluded from the definition of firearms in the EU Directive “provided that they can be used for the stated purpose only” (meaning that they cannot be converted to fire a live round). The Firearms Directive classifies those alarm

¹⁴⁵ See par. 3.5 for further details.

weapons that may be convertible as firearms (*art. 1*). At the same time, the Directive does not include a definition, standard or guideline on what items are convertible. It is up to each MS to assess whether or not new and existing alarm weapons on the market can be converted¹⁴⁶ and are subject to licensing requirements, or can be freely obtainable. As a consequence, there are MS where these weapons can be bought with no license or declaration and others where they are considered as firearms and subject to the same rules. Specifically, 17 MS¹⁴⁷ report their registration, considering them as firearms (BG, CY, CZ, DK, EL¹⁴⁸, ES, IT¹⁴⁹, IE, LU, LT, MT, NL, PL, PT, RO, SE, UK). A handful of MS report no license requirements for any activity related to alarm weapons (AT, EE, FI and SI).

Differences in the assessment of what constitutes “convertible”, together with the existence of Turkish alarm weapons which appear to be more easily convertible than the ones produced in the EU, led to the circulation in the EU of alarm weapons with different levels of security and to cases of conversion of alarm weapons in a number of MS (see par. 2.2.1).

Finally, also antique weapons are sometimes considered firearms depending on their definition in the national legislation. Firearms that “are regarded” as antique weapons by MS are excluded from the Firearms Directive. Nonetheless the EU Directive does not define antique weapons. The absence of a clear definition at EU level led MS to define what they consider as antique weapons. The existing criteria for classification vary a lot among MS (e.g., year of production, model, rarity, the absence of ammunition on the market, etc.) Many MS choose to have a “cut off” date to define what firearms are classified as antique and they sometimes refer to firearms produced before 1870 (as stated by the Schengen acquis - Convention implementing the Schengen Agreement of 14 June 1985) or to firearms produced before 1889 (as stated by the Regulation 258/2012 implementing Article 10 of the United Nations’ Protocol). At least one MS, the UK, does not define antique weapons in its legislation, but provides a guideline that most pre-1939 weapons will be classified as antiques. Fully functioning firearms from e.g. the first World War have sometimes been acquired by criminals, but the burden rests on a prosecutor to convince a judge on a case-by-case basis that a fully functioning weapon found in possession of a suspected criminal is not an antique.¹⁵⁰

No major errors or lack of understanding in the use of categories at national level have emerged: the Directive seems to be generally clear. Nonetheless, the analysis conducted for case studies (BE and DE) revealed the poor quality of data in the computerised data-filing system due to classification mistakes of the responsible personnel. We did not register any case of firearm downgrading (i.e., a firearm subject to less stringent rules than the ones

¹⁴⁶ As an example, the UK has defined a category of “readily convertible imitation firearms”. A realistic imitation firearm is treated as a live firearm if it can be readily converted into a weapon from which a shot, bullet or other missile can be discharged. In this case, “readily converted” means that it can be so converted without any special skill of the person converting it, and the work needed for conversion does not require equipment or tools other than the one in common use by persons carrying out works of construction and maintenance in their own homes. Lithuania has instead created a list of criteria to determine if an object is convertible, including if the main construct elements are hard construction (e.g. a steel barrel), or essential components are easily removable, where objects that can be readily convertible are banned.

¹⁴⁷ Source: Study to support an Impact Assessment on a possible initiative related to improving rules on deactivation, destruction and marking procedures of firearms in the EU, as well as on alarm weapons and replicas, EY and Sipri, June 2014.

¹⁴⁸ For gas or air propelled guns.

¹⁴⁹ For signal weapons.

¹⁵⁰ No major security issue has been reported by stakeholders in relation to these firearms. Thus we just point at the inconsistency in the definition mentioning the potential related risks.

indicated in the Directive). In case of doubts, clarifications were generally provided by dedicated national contact points (when identifiable), or by bilateral contacts among competent authorities.

The differences in the implementation of the categories at national level are at the origin of a number of market and security issues, even though to a more limited extent. We present here below the main issues as reported by stakeholders.

Differences in implementing rules adopted at MS level together with the lack of transparency on these rules¹⁵¹ vis-à-vis other MS represent an obstacle to economic operators which need to collect information from different sources (e.g., MS authorities, retailers associations, branches of bigger companies) before importing/exporting a firearm from and to other EU countries. Economic operators need to collect additional information, for instance, to know whether a type of firearm can or cannot be transferred to another MS or to know the requirements/procedures to be fulfilled when entering the country.¹⁵²

Hunters and marksmen reported obstacles due to some sporting firearms being prohibited (A category) in some countries while they can be legally purchased in others.¹⁵³ This has induced market bottlenecks with respect not only to hunting and sport shooting firearms acquisition, but also to the free movement of firearms across Europe.¹⁵⁴

One of the main producers of alarm weapons in Europe also raised issues in relation to the functioning of the internal market. The marketing and free circulation of alarm weapons can indeed be negatively affected by the lack of a clear and common understanding of which items should be allowed to freely circulate in the market (as non-convertible items), and which ones should be subject to the provision of the Firearms Directive. Depending on the burden and costs of the different national requirements, the competitive positioning of MS on the internal market can be affected. In this regard, the Italian case, as reported during the interview with an Italian manufacturer and the meeting with the main Italian firearms producers¹⁵⁵, is illustrative of how the strict interpretation of the EU legal framework as regards signal weapons created a number of obstacles and additional costs¹⁵⁶ (for production and transport) that threaten the competitiveness of Italian companies in the internal and international market.

Finally, even though only a limited number of MS competent authorities (CZ, LV, NL, RO) mentioned this security concern during interviews, national differences in firearms categorisation generate the risk of cross-border lower category shopping (i.e., cases where firearms are legally bought in an MS where regulations to buy or possess these firearms

¹⁵¹ International association representative of sport shooters and a Spanish producer.

¹⁵² Association representing German firearms manufacturers, two associations of gun dealers and an Italian producer.

¹⁵³ In Italy the 9mm parabellum firearms are included in category A firearms according to the national legislation while they are commonly used in sport shooting competitions in other MS. This situation has also generated constraints for the country to host big sport shooting competitions.

¹⁵⁴ Other examples refer to an Italian producer which mentioned that in Italy – as well as in the UK, Belgium and Germany – front firing alarm weapons are considered firearms, whereas in most of MS they are not (also mentioned by a German association of dealers). Furthermore, a Spanish producer mentioned that semi-automatic rifles are prohibited in UK, while allowed in Spain, posing an obstacle to internal market transactions.

¹⁵⁵ Meeting conducted in Gardone Val Trompia with Italian producers of civilian firearms, alarm weapons, replicas and antique weapons on February 14th 2014 within the framework of the Impact assessment study on deactivation, destruction and marking procedures of firearms in the EU, as well as on alarm weapons and replicas for the DG HOME.

¹⁵⁶ The main issues that Italian producers face refer to higher costs related to safety tests of the National Proof House, additional transportation/export authorizations and higher transport cost.

are less strict and then brought illegally back to other MS with more severe restrictions¹⁵⁷). As MS may adopt more stringent regulations than the Directive minimum standards, it is possible that the same type of firearm is subject to different regulations according to national laws (e.g. parabellum 9 mm is forbidden in Italy while being considered a sport shooting firearm in other EU MS). As already described before, there are 15 MS where firearms are classified according to categories A and B, and 13 MS adopting less stringent regulations. This different categorisation may lead to criminal acts that take advantage of less stringent regulation to buy specific types of firearm that are then introduced in the illicit market. The major concern in this regard relates to the possibility to buy alarm weapons in those MS applying more flexible production standards and control/testing procedures, with the aim of converting them into a real firearm.

3.2 Licensing for ownership, dealers and brokers

The Firearms Directive foresees minimum requirements for ownership which also apply to dealers and brokers. As concerns the two latter, some additional criteria are defined with respect to their specific activities. The analysis thus starts with a general assessment of the requirements related to ownership and it continues with a focus on specific requirements to be applied to dealers/brokers.

3.2.1 Private owners

The Firearms Directive set out three main criteria for the ownership of civilian firearms. To own a firearm, the applicant has to be at least 18 years old, provide a good reason, and not to be a danger either to himself or to public order or safety.

Whilst the Directive established an objective threshold for age, the other two requirements are quite vague, leaving room for heterogeneous applications across MS. Consequently, MS have interpreted them differently at national level.

All MS comply with the minimum age requirement with 9 MS (BE, BG, CY, DK, EL, HU, MT, RO, SI) introducing this requirement for all types of firearms with no exception, and others, like Estonia or Poland, fixing a higher minimum age (i.e. 21 years). Moreover, there are MS that set different age thresholds for different firearms categories. For instance, Austria and Croatia set 21 years old as minimum age to own a category B firearm and 18 for categories C and D.

“Good reason” for obtaining a firearm license also varies. 22 MS (AT¹⁵⁸, BE, BG, CZ, DE, EE, EL, ES, FR, HR, HU, IT, LT, LU, LV, MT, NL, PL, PT, RO, SI, SK) allow citizens to keep firearms for self-defence (of person or property). Legitimate reasons for firearms acquisition include: sports or target shooting and hunting, marksmen or other professional activity (e.g. authorised guard or security company), collection (including in museums), training, scientific research, education, shooting farm animals or vermin control, acting, filming, photographing or other performance, signalling, holding and transporting (for person between 15-18 years old, in Finland). Occasionally, the listed purposes fall outside of the scope of the Directive, for example, with regard to museum collections (CZ, FI, FR, HR, SE).

Beside the existence of a reasonable justification, owners have to demonstrate that they are not a personal/public threat. In this respect, ownership typically depends on full legal capacity, the existence of a reasonable justification for the type of weapon (e.g. proof of work

¹⁵⁷ In some EU MS alarm weapons are considered as firearms and in some others can be bought on the market with no license.

¹⁵⁸ Only category B.

in which the weapon is required), a proof of proficiency in how to handle a firearm (e.g. passed hunting exam), and a background check – no criminal record or no past serious offence (all MS).

Still with respect to the third criterion, 23 MS (BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LV, MT, NL, PL, PT, RO, SI, SK) require a valid medical certificate to issue a firearms license while in the UK a successful applicant “Must not be of intemperate habits or unsound mind”. Finally, 20 MS (BG, DE, DK, EE, EL, ES¹⁵⁹, FR, HR, HU, IE, LT, LV, MT, NL, PL, RO, SE, SI, SK, UK) oblige owners to guarantee the secure storage of the firearm. Secure storage has been raised as a potential good practice by some MS (LT, LV, SE, UK) and by the Small Arms Survey. This practice would help to further weaken the link between licit and illicit firearms market by making theft more difficult, as well as avoid accidents or impulsive violent crimes in or around the home/store.

Other MS include additional criteria such as the “integrity” and “reliability” (SK) or “trustworthiness” (SI) of the applicant.

With the exceptions of Hungary, Poland, Sweden, and some German Landers, the same national requirements set for firearms count also for the ownership of ammunitions.

Most MS (BE, BG, CY, DE, EE, EL, FI, HR, LT, LU, LV, MT, PL, PT, RO, SE, SI, SK) provide different time limits for firearms possession and acquisition, generally foreseeing shorter deadlines for the latter.

Validity of acquisition permits ranges from a minimum of 2 days in Cyprus to a maximum of 5 years in UK. As for the possession licence, it may be valid for 1 year in Malta (for category B, while for C is unlimited) up to an unlimited period (BE, CY, DE, FI, LV, PL, SE). Among these MS, however, some (BE, CY, PL) state that the licence is valid as long as the requirements under which it has been granted are met. Others instead provide exceptions according to the type of firearms owned. In Finland for instance firearms ownership is unlimited in general, but the licence expires after 5 years for pistols, revolvers and .22 pistols and revolvers when purchased for the first time. Also in Latvia firearms ownership is unlimited as a general rule, except when it entails possession or carrying of category B firearms for self-defence purposes, which is valid for only 10 years.

As for MS in which licences for firearms acquisition and possession have the same validity (AT, CZ, DK, ES, FR, HU, IE, IT, NL, UK) the time limits range from a minimum of 1 year in the Netherlands up to an unlimited period in Austria, where however regular checks are performed to verify that requirements are still fulfilled. Some MS provide for different time limits depending on the purposes for acquiring or owning a firearm. In Denmark for instance permits are valid for 5 years, but for collectors and hunters with long rifled firearms they are valid for 10 years. Another example is Italy, where permits for firearms for self-defence last 1 year, for sport shooting and hunting 6 years while they are unlimited for collection.

The validity of the ownership license also depends on the category of firearm. In some countries, time limited licences also apply to firearms of category B (5 years in FR, LT and PT; 1 year in MT) while the authorisation to possess a category C firearm is unlimited. Permits for ownership of category D firearms are often not subject to time restrictions.

Stakeholders did not raise specific security concerns as relates this provision. All MS but Romania, France and Belgium find current requirements to own a firearm (for individuals as well as for dealers and brokers) adequate to limit the potential dangers linked to the risk of

¹⁵⁹ This requirement shall be applied only in case of long rifled firearms (hunting – not classified as war firearms).

illicit use of legally owned firearms. Only in a few cases (2 producers), did industry representatives state that psychological tests for owners should be binding in all MS.

3.2.2 Dealers and brokers

As regards dealers, according to the Directive, "Member States shall make the pursuit of the activity of dealers within their territory conditional upon authorisation on the basis of at least a check of the private and professional integrity and of the abilities of the dealer. In the case of a legal person, the check shall be on the person who directs the undertaking". Dealers are also required to maintain a register in which all firearms are recorded and to deliver the register to national authorities upon cessation of their activities.

As concerns brokers, they are subject to at least one of the following requirements: the registration or the licensing/authorisation of the activity.

Before moving to the analysis of how the requirements mentioned above have been implemented by MS, it is worth mentioning the limited consistency in the interpretation of the term "broker" in national regulations.

Rules to be applied to brokers and dealers continue, in some cases, to be unclear. In 2008, the amended Directive introduced a distinction between dealers and brokers, but in general, national legislation does not distinguish between the two. Only few countries include a clear definition of broker (BE, ES, FR, IE, IT, LT, LU, LV, PL, RO). Furthermore, in a number of countries (BE, DE, ES, FR, HU, LU, PL, RO, SI) the same requirements apply to both dealers and brokers. A broker is defined by the Directive as "any natural or legal person, other than a dealer, whose trade or business consists wholly or partly in the buying, selling or arranging the transfer of weapons". This partly overlaps with and is difficult to distinguish from the definition of "dealer", which is "any natural or legal person whose trade or business consists wholly or partly in the manufacture, trade, exchange, hiring out, repair or conversion of firearms, parts and ammunition". There is no distinction or explanation in the Directive of the difference between "transfer" and "trade" or "exchange". Neither is it clear why brokering activities are limited to fully assembled weapons, and not ammunitions or parts.

Another unclear issue is whether a broker is a person (legal or natural) that engages in the activity of brokering, or whether a broker is someone who holds a specific license or permit. For example, is a company (e.g. a specialised publication) or website that advertises the sale of firearms engaged in brokering? Is the marketing and sales department of a manufacturing company engaged in brokering?

Dealers and brokers shall have at least the same requirements as private owners. Many MS go beyond that and, among others, require documentation on economic activities or detailed descriptions on planned business activities¹⁶⁰ (BG, EE, EL, LT). In Poland every 5 years dealers are required to submit to the concession authority updated medical and psychological reports. An explicit requirement for safe storage of firearms is not included in the Directive for dealers or brokers. Nonetheless a number of MS (BG, CY, DE, DK, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LV, MT, NL, PL, PT, RO, SE, SI, SK, UK) foresee it in their legislation.

The validity of the license for dealers may vary from 1 year (MT) to 5 years (CY, DK, EE, FI, HR, HU, LU, NL, SI) up to an unlimited duration (AT, BE, CZ, DE, ES, LT, LV, RO, SE, SK). Some MS belonging to this latter group perform regular checks on dealers to verify that the

¹⁶⁰ Employers, stakeholders, location, infrastructure, 'a noise measurement report' in Estonia.

original conditions are still valid. Similar answers have been provided by MS competent authorities in relation to brokers.

The definition of broker or dealer includes natural persons, and so both the acquisition and possession of firearms by dealers can be considered as covered by the provisions that apply to individuals. However, the Directive would be clearer if it expanded the provisions on acquisition and possession to explicitly refer to legal as well as natural persons, and to include both private and commercial purposes.

In all responding MS, registers are kept according to the Directive and State authorities control the information compulsorily registered by dealers. In most cases (AT, BE, BG, CY, CZ, DK, EE, EL, ES, FI, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, RO, SE, SI, SK, UK), MS police forces are responsible for controls, whose frequency varies according to national requirements (e.g. once a year in NL, PL, RO, SE, UK; four times per year in EL; monthly and unannounced inspections apply in PT).

MS representatives have not reported major security issues in relation to the activity of dealers and brokers. Only France¹⁶¹, Sweden and Romania have mentioned specific cases such as authorised dealers providing imported firearms to non-authorised third parties, or authorised dealers exporting firearms without the requested transfer documents. Nonetheless these are exceptional cases regarding illicit firearms selling and thus they do not fully relate to the Directive.

3.3 *European Firearms Pass (EFP)*

The EFP was introduced to allow more flexible rules for hunting and target shooting and to facilitate the movement of hunters' and sport shooters' firearms.

The EFP is now the only document (together with a proof of hunting and target shooting activities) requested by the majority of MS to enter their territory for hunting and sporting reasons, substituting the heterogeneity of documents previously requested to move across the EU.

According to the Directive (art. 1.4) "a 'European firearms pass' shall be 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, which may be extended, and shall contain the information set out in Annex II". Moreover, the Directive (art. 12.2) allows marksmen and hunters to travel across MS without prior authorisation provided that "they are able to substantiate the reasons for their journey, in particular by producing an invitation or other proof of their hunting or target shooting activities in the Member State of destination".

Main differences in the implementation of the specific requirements established by the Directive relate to the fees required to obtain and renew the EFP, while documents requested to issue/renew the EFP and its validity prove to be quite homogeneous.

As for the fees, 19 MS (AT, BG, CY, CZ, DE, EE, ES, FI, HU, IT, LT, LU, LV, NL, PL, PT, SE, SI, SK), declared that they make the issuance of the EFP conditional on the payment of a fee to cover the costs of the administrative procedures. The amount of the fee varies.¹⁶² 16 MS (AT,

¹⁶¹ The French Ministry of Interior reported around 10 cases since 2003 of dealers exporting firearms without the requested transfer documents.

¹⁶² Portugal stands out with the highest fee (€ 87.5), followed by SE (€ 78) and LV (€ 62). In other MS the amount is considerably lower, e.g. € 11.12 in ES, € 17.5 in IT and € 16.5 in SK.

BG, CY, CZ, DE, ES, FI, HU, IT, LU, LV, NL, PL, PT, SE, SK) require a fee also for the renewal of the EFP. Also in this case, the amount varies among MS.¹⁶³

As regards the documents requested for the issuance of the EFP, generally a valid firearm and/or shotgun certificate (or all the documents necessary for its issuance) is requested. In some MS, such as Lithuania, Latvia and Hungary, the applicant needs to present documents certifying the registration with hunting or sporting associations. The same documents are also required to renew the EFP.

The time to issue an EFP varies across MS from immediately (SK) to 2 months (IT).

Table 11 – Days to issue the EFP in EU MS¹⁶⁴

Member States	Days to issue the EFP	Member States	Days to issue the EFP
SK	Immediately	BG	30
BE	7	CY	30
IE	7	CZ	30
MT	7	EE	30
LV	13	LT	30
FI	14	LU	30
PT	15	NL	30
HU	21	PL	30
SE	28	RO	30
UK	28	IT	60

Source: EY online survey

The period of validity is 5 years in all MS. In Cyprus, Czech Republic, and Denmark, it is valid for 10 years when only category D firearms are included while the same validity sometimes concerns specific firearms typologies (sporting firearms in Belgium, single shot firearms in Germany and Greece, shotguns in Sweden).

The Commission has adopted a recommendation including a model for the EFP.¹⁶⁵ Our analysis shows that 19 MS (AT, BE, CY, CZ, DE, ES, FI, HR, HU, IE, IT, LT, LV, NL, PL, RO, SE, SK, UK) follow this format. For other MS (BG, EE, EL, FR, LU, PT, SI) national laws foresee the EFP for hunters and marksmen but they specify neither the information to be included nor the format to follow. Denmark and Malta provide for the minimum required information to be entered in the pass in their national laws, but they seem not to have directly adopted the proposed EU format.

The number of EFPs holders in a MS varies significantly and it is strongly linked to the national hunting and sport shooting traditions as well as to the existence within the national borders of hunting and sport shooting clubs. Thus the absolute number of EFP holders cannot be considered in all MS as a proxy of the EFP's effectiveness. Instead, this figure should be compared with the total number of hunters and marksman registered in each MS.

¹⁶³ Ranging from a minimum of € 3 in SK to a maximum of € 87.5 in PT.

¹⁶⁴ Please consider that DK, EL, HR competent authorities did not participate to the survey; AT, FR, SI did not answer to the specific question and DE and ES stated that the timeline varies according to the Administration workload.

¹⁶⁵ Recommendation 93/216/EEC (OJ L 93, 17.4.1993, p.39). The recommendation is supplemented by Recommendation 96/129/EEC of 12 January 1996 (OJ L 30, 8.2.1996).

The Table below shows that while in Luxembourg around 45% of hunters and marksmen have an EFP, the corresponding share is only 2.5% in Poland and 1.5% in Romania. There are logical explanations for these differences. Luxembourg is small and it has a population with a high disposable income that can afford to travel to places where hunting is an organised activity. In Poland or Romania, by contrast, there is a much larger domestic territory in which hunting can take place, and these countries are also among the top European destinations for hunting.

Table 12 – Number of EFP holders in 2013/2014 and share on the total number of marksmen and hunters¹⁶⁶

MS	EFP holders	Hunters	Marksmen	Total num. of marksman and hunters	% of EFP holders over tot. num. of marksmen and hunters
AT	36,000	<i>n.a.</i>	<i>n.a.</i>	-	-
BE	7,274	27,000	16,000	43,000	16.9%
BG	142	128,098	728	128,826	0.1%
DE	60,000	340,000	<i>n.a.</i>	-	-
EE	1,230	-	-	-	-
ES	15,169	1,813,428 ¹⁶⁷	51,414	1,864,842	0.8%
FI	more than 1000 EFP granted annually	300,000	50,000	350,000 (in 2013)	-
FR	39,378*	1,230,000	230,525	1,460,525 (in 2013)	2.7%
HU	5,730 (in 2013)	164,017	<i>n.a.</i>	-	-
IT	20,000*	697,776	375,189	1,072,965 (in 2012)	1.9%
LT	1,136 (issued from 2004)	34,240	327	34,567 (in 2013)	-
LU	3,567 (in 2008)	2,061	5,876	7,937 (in 2013)	44.9%
LV	78 (in 2013)	26,335	259	26,594 (in 2013)	0.3%
MT	145 (in 2013)	4,038	10,864	14,902	1.0%
NL	14,499 (in 2012)	28,000	42,000	70,000 (in 2012)	20.7%
PL	5,855	150,750	18,804	169,554 (in 2013)	3.4%
PT	770 (in 2013)	54,099	1,346	55,445 (in 2012)	1.4%
RO	1,238	80,000	3,000	83,000	1.5%
SE	8,258	490,000*	96,000*	586,000	1.4%
SI	3,600	<i>n.a.</i>	<i>n.a.</i>	-	-
SK	9,071 (in 2013)	<i>n.a.</i>	<i>n.a.</i>	-	-
UK	16,167	<i>n.a.</i>	<i>n.a.</i>	-	-

Source: EY survey, interviews for UK and PL for the number of EFP holders and EC COM(2012)415 for data with *

The main difference among MS according to the legal analysis - the request of a fee for the issuance/renewal of the EFP - does not bring major concerns as regards the internal market

¹⁶⁶ As for DK, EL, HR: no survey is available. As for CY, CZ, FI, IE the number of EFP issued/holders was not specified in the survey. Data in the table mainly refer to 2014 as we tried to consider the most recent available data. Whenever this was not possible, the reference year is reported into brackets. Sometimes it may occur that data refer to two different years: the most noticeable case being Luxembourg, where 3,567 is the number of EFP holders in 2008 while the figures for hunters and marksmen refer to 2013.

¹⁶⁷ Please consider that the total number of hunters in Spain results from the sum between "licencia D" and "licencia E" holders (major and minor hunting respectively). The number may thus be overestimated due to possible overlapping.

since its cost appears to be negligible with respect to relative advantages. At the same time, this provision shows a remarkable harmonisation in terms of procedural features as well as validity.

Representative of hunters and sport shooters associations are in general satisfied with the EFP and highlight the positive contribution of this document to their movement across the EU. According to the survey and interviews, the EFP has simplified their movement within the internal market and significantly reduced difficulties to obtain authorisations and permits for moving from one MS to another. This confirms the positive evaluation expressed by the Commission in the amendment to the Directive in 2008.¹⁶⁸

Nonetheless, hunters and sport shooters associations expressed their dissatisfaction with the fact that the Directive has not always been correctly applied by MS in relation to the EFP. Besides the aforementioned differences, the analysis raised additional differences which relate more to MS implementation than to a lack of clarity of the Directive's provision.

The first point relates to the additional (with respect to the EFP) authorisations requested by some MS before the arrival of the hunter/sport shooter in the country (e.g., a visitor permit in DK, LU, SE, and UK).

Three users' associations have mentioned this problem. According to them, any additional national licence or document besides the EFP (e.g. additional forms, fees, even the need for a "host" to intervene in the case of the UK) constitutes a double administrative burden for hunters and sport shooters. They argue that the EFP should be the only document needed for travelling within the EU. As recalled by the EC in the Directive amendment (2008/51/EC): "The European Firearms Pass [...] should be regarded as the main document needed by hunters and marksmen for the possession of a firearm during a journey to another Member State". While the Directive does not prevent MS from requesting hunting licences or documents relating to the use and carrying of weapons in certain circumstance (Art. 2.1), it also states that "Member States should not make the acceptance of the European Firearms Pass conditional upon the payment of any fee or charge (Art. 12.2)". Additional requested documents often represent a charge for hunters and marksmen. In some cases, they are subject to fee and this seems to run counter to the original spirit of the Directive aimed at ensuring more flexible rules for hunting and target shooting in order to avoid impeding the free movement of persons.

Another issue raised by the comparative analysis of the national legislation highlighted that some MS (BG, HR, HU, RO) allow the entry of hunters and marksmen into their territories only if an invitation to a competition is provided. This caused some problems to its associates as hunters and sport shooters often travel to practice or are members of a cross-border association. Also in this regard the EC intervened to clarify art. 12.2¹⁶⁹ explaining that the derogations in art. 12.2 for hunters and marksmen are not limited only to situations of an organised sporting event, but can also cover situations where the person can justify the reasons for the journey in a different way.

Another obstacle to the free movement of hunters and marksmen across MS was raised by user representatives involved in the analysis of the French case study, and it relates to the limit in the number of firearms¹⁷⁰ that can be registered in the EFP in some countries. For

¹⁶⁸ Point 14 of the Directive 2008/51/EC "The European firearms pass functions in a satisfactory way".

¹⁶⁹ COM(2000)837 Report from the Commission to the European Parliament and the Council. The implementation of Council Directive 91/477/EEC, of 18 June 1991, on control of the acquisition and possession of weapons.

¹⁷⁰ According to information collected it seems that hunters and marksmen rarely need to move with more than 10 firearms.

instance, France limits the number of firearms which can be entered into the Pass to 12, while Italy, Luxembourg and Sweden limit it to 10. This de facto limits the number of firearms that can be transferred from one MS to another. Similarly to the previous cases, it is important to notice that the Directive does not provide for any limitation on the number of firearms that can be transferred by a hunter or marksman, and that the EC has further strengthened this position in 2000 in the evaluation of the implementation of the Firearms Directive stating that "the limitation of the number of firearms may be a serious problem in particular for marksmen needing to carry several firearms to take part in competitions".¹⁷¹

The information collected through the survey and the interviews confirmed the absence of security problems related to hunters and marksmen coming from other MS. Most MS never recorded criminal offences committed by EFP holders. Only some hunting accidents were reported by the Finnish Ministry of the Interior. This confirms the previous findings of the Commission¹⁷² of no safety problems linked with the use of the EFP.

3.4 *Marking and traceability*

3.4.1 *Marking*

In all MS marking at the time of manufacture is the responsibility of the firearms manufacturer. In CIP¹⁷³ countries¹⁷⁴ firearms and their essential parts are also marked with the official proof marks by the national Proof Houses, if the proof firing testing has been successful. Proof Houses may also be requested to mark the serial number on imported firearms.

Evidence of the implementation of the marking provision can be grouped according to the following three main areas:

1. Information to be marked, including an assessment of MS compliance with the minimum requirements set by the Directive;
2. Placement of the mark, including evidence on the number and type of essential components¹⁷⁵ marked by MS;
3. Marking techniques used at national level.

As regards the information to be marked, minimum requirements for marking¹⁷⁶ are correctly implemented by all MS and they generally do not add any information to those

¹⁷¹ COM(2000)837 Report from the Commission to the European Parliament and the Council. The implementation of Council Directive 91/477/EEC, of 18 June 1991, on control of the acquisition and possession of weapons. See also the Commission Recommendation of 28 December 2004 complementary to Recommendation 96/129/EC on the European Firearms Pass.

¹⁷² COM(2012)415, footnote 8.

¹⁷³ Commission Internationale Permanente pour l'Epreuve is an international organisation which sets standards for safety testing of firearms. As of 2014, its members are the national governments of 14 countries, of which 11 are in Europe. The C.I.P. safeguards that all firearms and ammunition sold to civilian purchasers in member states are safe for the users.

¹⁷⁴ CIP EU MS are AT, BE, CZ, DE, ES, FI, FR, HU, IT, SK, UK, and non-CIP EU MS are BG, CY, DK, EE, EL, HR, IE, LT, LU, MT, NL, PL, PT, RO, SE, SI. The 11 CIP MS require the proof mark of a National Proof House to certify the safety of all firearms entering the market.

¹⁷⁵ (Art. 1b)"For the purposes of this Directive, 'essential component' shall mean the breach-closing mechanism, the chamber and the barrel of a firearm which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted".

foreseen by the Directive. 14 MS (AT, BG, CZ, DE, EE, EL, FR, HR, HU, IE, IT, LV, PT, SK) require the marking of additional information, such as: the calibre, the weapon type/model, the manufacturer's brand/trademark or identification number. For more precise details please refer to Annex 3.

Major differences relate to the placement of the mark and namely to the essential components to be marked. These differences create room for criminals to illegally trade firearms parts (see also par. 2.2.1) that can be used to build or reactivate a firearm. Moreover, the disassembly of a fully assembled weapon in which only one essential component was marked can provide a source of unmarked essential components that can be sold to other MS without being traced.

As for the number of essential components to be marked, the Directive establishes that all firearms must be marked (*Art. 4*). The Directive also defines essential components as firearms (*Annex I*), which logically means that all essential components must be marked (since they are firearms and all firearms must be marked). The Directive, however, established that, for assembled firearms, "the marking shall be affixed to an essential component of the firearm"¹⁷⁷ (*Art. 4.2*). This has created a logical ambiguity around whether or not it is necessary to mark all essential components of a firearm or only one. As a result, MS mark a different number of essential components.

Some MS (BG, EE, EL, FI, IE, IT¹⁷⁸, LU, LV, MT, NL) implement the Directive by marking only one essential component of an assembled firearm at the time of its manufacture. By contrast, there are MS (BE, HR, HU, LT, SE) which require the marking of all essential components. Among others, there are some MS (i.e. AT, ES, PT, UK) in which the essential components to be marked depend on the type of weapon. Other MS (CZ, DE, RO) do not specify how many essential components shall be marked but limit the provision to "at least one", sometimes providing a list. France prescribes to mark "one or more" essential components but at least the frame and the barrel; in Denmark the barrel and the frame while in Slovakia the barrel and the cylinder must bear the marking.¹⁷⁹

The difference arises, on the one hand, from the failure of some EU MS to treat essential components as firearms and, on the other hand, from the exemption of all essential components in the marking obligations of the Directive. The problem therefore is partly a lack of implementation of the Directive by some EU MS when it comes to classifying essential components as firearms – national legislations need to be revised so that the definition of firearms include essential components. The Directive could however also be made clearer regarding the marking of essential components.

Besides the number of essential components, further differences relate to firearms parts that MS consider essential. MS can indeed interpret more extensively the list of essential

¹⁷⁶ According to Art. 4.2 of the Directive "MS shall at the time of manufacture of each firearm either: i) require a 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 shall be without prejudice to the affixing of the manufacturer's trademark; ii) maintain any alternative unique user friendly marking with a number or alphanumeric code permitting ready identification by all States of the country of manufacture".

¹⁷⁷ The destruction of which would render the firearm unusable (art. 4)

¹⁷⁸ The example is referred to the producers marking, whereas the mark of the Proof House is affixed on all the essential components.

¹⁷⁹ For Poland, Cyprus and Slovenia no precise data were found on this. For more detailed information please refer to Annex 3(3.6).

components included in the Firearms Directive (*Art. 1b*), that seems to be not univocal and depending on firearms types. Consequently different parts are marked in different MS. For instance, in some MS – like BG, CZ, ES, FI, FR, IT, LT, LV, MT, PL, SE and UK- the frame is considered as part of the breach-closing mechanism and thus as an essential component and is subject to the same rules as firearms, while in other MS the frame is not regulated and can be freely sold. The same can happen with the grip (HR).

Different interpretations of essential components lead MS to mark different firearms parts and some of them (AT, BE, DE, DK, ES, FR, HR, HU, LT, PT, SE, SK) list essential components to be marked in their national legislations. This contributes to reducing information asymmetries concerning different marking procedures in force across the EU. The other MS (BG, CZ, EE, EL, FI, IE, IT, LU, LV, MT, NL, RO, SI), though providing a specific definition of essential component, do not specify which ones should be marked, limiting the provision to “marking one” or “marking at least one” essential component. The United Kingdom does not specify which essential component has to be marked, since it depends on the type of weapon concerned.¹⁸⁰

An additional issue with regard to the treatment of essential components, including their marking, is that the EU Directive's requirements differ from the ones set by the UNFP in terms of: definition of essential components, marking requirements and firearms to be marked (see the Box below). Some MS have individually ratified the UNFP and they have ratified it at different points in time, leading to differences in implementation. Starting in February, 11th 2014¹⁸¹ the European Union has made the application of the UNFP compulsory for all MS. All EU MS are now obliged to transpose marking requirements from the UNFP into national law as concerns imports of firearms from third countries into the EU and exports of firearms to third countries outside the EU. As concerns the transfer of firearms within the EU, the Firearms Directive still applies. Given its recent approval, the ratification has just started producing effects towards the achievement of the targeted degree of harmonization and differences among MS will likely persist for a while together with the inconsistencies between the two legislative documents (i.e. definition of essential components).

Box 7 – Inconsistencies of the Firearms Directive with the UNFP in relation to marking requirements

The UNFP does not distinguish parts and components from “essential components”, unlike the EU Directive. Under the UNFP: “Parts and components” shall mean any element or replacement element specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound caused by firing a firearm” (*art. 3*). The UNFP does not cover other types of parts, which are not essential to the functioning of weapons (*art. 3b*). Thus the UNFP has a more inclusive definition of essential components than the one of the Firearms Directive¹⁸² which leads to stricter controls on more parts of firearms.

The UNFP includes provisions on the obligation to mark firearms at the time of

¹⁸⁰ For Poland and Cyprus no precise data were found on this. For more detailed information please refer to Annex 3(3.6).

¹⁸¹ Council Decision of 11 February 2014 on the conclusion, on behalf of the European Union, of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime.

¹⁸²“For the purposes of this Directive, ‘essential component’ shall mean the breach-closing mechanism, the chamber and the barrel of a firearm which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted” (Art. 1b).

manufacturing as the EU Firearms Directive does, and to mark weapons with an additional mark in case of import. Article 8b of the UNFP: "Requires appropriate simple marking on each imported firearm, permitting identification of the country of import and, where possible, the year of import and enabling the competent authorities of that country to trace the firearm, and a unique marking, if the firearm does not bear such a marking. The requirements of this subparagraph need not be applied to temporary imports of firearms for verifiable lawful purposes". The EU Regulation 258/2012¹⁸³ only partly translated this provision into EU law, as the Regulation requires an import mark only in those cases when a unique mark from the manufacturer is not visible.¹⁸⁴

National marking practices differ also in terms of types of firearms to be marked and specifically in the marking of imported firearms. By way of implementing the UNFP (see Box above), some MS, like Sweden, Lithuania and Luxembourg, place a national import mark on firearms entering the country, even if the weapons are supplied from other EU MS and are already marked on arrival. While this practice may be considered as a burden for economic operators, it contributes to preventing the risk of circulation of unmarked firearms.

Moreover, although handling an unmarked weapon is illegal throughout the EU, MS without domestic production seem to consider marking procedures under the responsibility of the producing States only. A lack of marking capacities in importing states may lead to non-compliance with EU Regulation 258/2012 and the UNFP, at least in situations where firearms are imported to the EU from Third Countries (such as the United States).

Finally, reported differences in the classification of alarm weapons and replicas reported in par. 3.1 are reflected in different marking requirements. 7 MS require marking of alarm weapons (BE, DK, FR, IE, LT, NL, SK) and 4 MS report that replica weapons (DK, FR, LT, SK) must be marked at the time of manufacture.

With respect to marking techniques, they are neither specified in the Firearms Directive nor in national laws. The majority of MS do not prescribe any compulsory procedures; leaving firearms producers free to choose the technique they prefer (e.g. FR, PL, UK). Reported techniques may be diverse going from lasing, to pressing and engraving (by hand or industrial micro percussion). The recovery of firearms with erased or altered marks (see par. 2.2.1 for details on reported cases) challenges the appropriateness of existing marking techniques and questions whether enough is being done¹⁸⁵, working with the firearms manufacturing industry, to develop technical procedures that make erasure more difficult.

Nonetheless, the above mentioned security concern appears to be limited and overall, the majority of MS competent authorities considers the current marking system as adequate to prevent the alteration of the marks and consequently to prevent illicit firearms trafficking.

¹⁸³ Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition EU regulation, Official Journal of the European Union, L94, 30 Mar. 2012, art. 2.

¹⁸⁴ The Regulation 258/2012 requires identifies illicit trafficking in part as: 'the imported firearms are not marked at the time of import at least with a simple marking permitting identification of the first country of import within the European Union, or, where the firearms do not bear such a marking, a unique marking identifying the imported firearms'.

¹⁸⁵ According to the UNFP, State parties shall also 'encourage the firearms manufacturing industry to develop measures against the removal or alteration of markings (art. 8).

Finally, it is worth mentioning a minor issue on costs resulting from the coexistence of CIP/non-CIP members in EU. Non-CIP members exporting firearms towards CIP members have to pay for the proof test. Producers located in MS where proof tests are required are likely to face higher production costs than those located in MS where these tests are not compulsory (e.g., MS not belonging to the CIP).¹⁸⁶ However, since the main firearms producers (AT, BE, DE, FR, IT) are CIP members, there are no major market distortions as all of them face similar costs.

In the end, according to MS (e.g., LT, IE, PL), industry representatives¹⁸⁷ and users¹⁸⁸, rules related to marking provision are deemed positive and no major obstacles to the internal trade in firearms have been reported in relation to the manufacturers' marks.

3.4.2 Traceability

With respect to traceability, 24 MS (AT, BE, BG, CY, CZ, DE, DK, EE, EL, ES, FI, FR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, RO, UK) reported that they have already established a computerised data-filing system (which the Directive makes compulsory from 2015). Three countries (SE, SI, SK) have not established it yet. Sweden and Slovakia estimate that they will not meet the deadline. Sweden's current weapon register is paper-based. According to a representative of the Swedish Ministry of Justice, it is not possible to say when the planned new computer-based system will be in place due to a major reorganisation of the Swedish Police Force. Slovakia too holds a comprehensive paper-based register. The current Slovenian computer-based register keeps records of owners and firearms but does not include data on trading. This integration is ongoing and the Ministry of Interior estimates that the comprehensive computerised system will be operational starting from January 2015¹⁸⁹. No data could be obtained concerning the firearms register in Croatia.

National authorities keep information about firearms and owners, with some variations across MS. All registers include personal information on the owner, manufacturer, country of origin, type and model of firearms, calibre, and firearm serial number. Additional information such as details of repair (EE, LV) or former sales (LV) or import/export (CZ, DK, EE, LV, SI) of the weapon, or cartridge type (CZ, PT) is occasionally registered.

Registers appear not to categorise weapons based on the EU classifications, which presumably makes it more difficult to extract consolidated data from the national registers based on EU weapons categories. Evidence does not allow assessing whether data on firearms ownership can be extracted from national databases using fixed or free data searches.

As regards traceability, it is important to underline that the computerised register for all firearms circulating in the MS is expected to be a strong support to law enforcement authorities allowing them to quickly get information on firearms thanks to the digitalisation of the national registers. As reported in the COM(2012)415¹⁹⁰, some MS (FR, LU, NL, PT, SE),

¹⁸⁶ As an example, in Belgium all firearms coming from non CIP MS are subject to the proof tests of the National Proof House.

¹⁸⁷ According to 12 out of 15 representatives of industry associations and to 8 out of 10 producers responding to the specific question of the EY online survey.

¹⁸⁸ According to a Finnish users' association and to an international association for sport shooters.

¹⁸⁹ In Slovenia the implementation of a computerized system compliant with the requirements set in the Directive is taking time because of financial difficulties of the Ministry of the Interior.

¹⁹⁰ Report from the Commission to the European Parliament and the Council, Possible advantages and disadvantages of reducing the classification to two categories of firearms (prohibited or authorised) with a view to improve the functioning of the internal market for the products in question through simplification.

consider that increased computerisation of information would help to link the movements of firearms with their owners.

Some MS (DE, FR, IT, PT) reported that national data on firearms circulating in the country can be shared or accessed by other relevant domestic ministries and agencies on request. However, they report that the same is not true for other MS or Third Countries. International information exchanges do occur through, for example, the Europol Channel or information system, the Interpol Forensic Firearms System, the Schengen Information System and bilateral exchanges. Nonetheless, these systems currently appear to be used by MS only to a very limited extent (BG, CY, DE, IE, PT, RO). This supports the finding presented in October 2013, when the Commission reported that "at present, logging and tracing of firearms in the EU is partial and insufficiently coordinated. For example, seizures may be logged on police but not customs databases, or vice versa, while data formats and access rules for various EU systems such as the Customs Risk Management System, the Customs Information System and the Europol Information System are not interoperable".¹⁹¹

Although no initiatives have been reported to interconnect national repositories, bilateral cooperation agreements between MS in order to prevent criminal offences with a clear geographic scope have been informally created. Where specific security concerns of a given MS may have an impact on a neighbour country, the two MS have sometimes established a specific agreement to share relevant information to support national law enforcement authorities to address the issue. For example Romania and Bulgaria have made an agreement according to which Bulgaria communicates to Romania if any Romanian citizen buys an alarm weapon (prohibited in Romania) on the Bulgarian territory.

The list of cooperation initiatives underway to adequately monitor the movement of firearms and other items, and facilitate law enforcement is quite long: from guidance and training of law enforcement officers (i.e. CEPOL trainings and the proposal for the establishment of a European Law Enforcement Training Scheme)¹⁹², to the improvement and extension of systems for tracing firearms (e.g. the Interpol system for registering and tracing illicit weapons-IARMS). In this regard it is worth mentioning the actions included in the new EU policy cycle (2013-2017)¹⁹³ on serious and organised crime, which has started in 2013 with the European Union Serious and Organised Crime Threat Assessment (EU SOCTA) drafted by Europol, and that provides a complete and thorough picture of criminal threats impacting the European Union. Within this policy cycle, under the *7th customs-police cooperation action plan*, a range of operational activities directly related to firearms has been launched for the definition of a comprehensive plan for cross border cooperation.

Overall, the firearms traceability is weakened by the limited integration of the two systems foreseen by the Directive: the register of dealers and brokers' transactions, and the centralised register of legitimate owners. In some MS (e.g. PT, SI, UK), the ongoing digitalisation applies also to dealers' registers in order to integrate all available information and thus enhance firearms tracing.

The full digitalisation and centralisation of information will also support the registration of data on firearms at national level. The in-depth analysis of the German case study (see

¹⁹¹ Firearms and the internal security of the EU: protecting citizens and disrupting illegal trafficking, Communication from the Commission to the Council and the European Parliament, COM(2013) 716 final, 21 October 2013.

¹⁹² COM(2013) 172 final.

¹⁹³ Council conclusions on the creation and implementation of an EU policy cycle for organised and serious international crime, 2010.

Annex 4) has highlighted the existence of difficulties at national level in the creation of a comprehensive database of firearms circulating in the country mainly linked to errors of the responsible personnel in entering information in the system¹⁹⁴.

Box 8 – The German electronic national registry of firearms

Germany has implemented an electronic national register of firearms before the deadline set by the Firearms Directive and namely in January 2013. The system is centrally managed by the Ministry of the Interior, and all 550 local authorities responsible for issuing authorisations and licences have access to the system and can feed it with the information they collect on a daily basis. The system records the following characteristics on each firearm: the EU Category (A/B/C/D), the model code (e.g. long rifle, shotgun, revolver), the sub categorisation, the manufacturer, the serial number, the calibre names and addresses of the supplier and the purchaser/owner.

Even though there are still some errors in the recorded information due to incomplete data or too general information, the quality is continuously improving. However, the system does not allow tracing the story of the firearm since its creation (information on the producer) until its deactivation or export to another MS. To this end there is a project (the German Firearms National Registry 2) to extend the database so that it can better support law enforcement authorities to fight illicit trafficking and keep record of all firearms' owners. No information is available as to when this new system will entry into force.

Main challenges to data collection at national level are due, among others, to the dispersion of data at local level¹⁹⁵ and the poor quality of data entry.¹⁹⁶ The Small Arms Survey¹⁹⁷ flagged up that poor record-keeping¹⁹⁸, differences in national classifications, and overlapping of categories of firearm holders (e.g. individuals using their private firearms in professional context) make it "impossible to be sure of the total number of all guns". The weaknesses in the registration of data on legally owned firearms may cause difficulties to cross-border law enforcement and limit the impact of the exchange of information among MS. As an example, different registration requirements may limit police capacity to trace a firearm found on a

¹⁹⁴ In order to overcome these kinds of difficulties and limit the errors that not-specialised personnel may encounter, in Belgium, as an example, since October 2010, the National Proof House is the exclusive responsible for registering newly produced or imported firearms into the computerized system. This measure was adopted to improve the poor quality of the database which resulted from the lack of knowledge and resources of Police and customs. The quality of data information has since then substantially improved.

¹⁹⁵ In Italy, as an example, data on registered firearms are collected at local/municipal level. Classifications have changed over the years and the IT systems used at local level are not always compatible with each other. Reconstruct a sound information basis on firearms actually circulating in the MS seems thus to be challenging. Data on firearms are spread among various actors: the National Proof House has an electronic register of all firearms tested and marked including newly produced firearms and imported firearms; Companies have all the information in relation to transfer and transport across MS; Customs have information regarding transfers between the EU and extra EU countries; and the National Police firearms register archive is old and the data follows a different codification system, and when the Police has to conduct an inquiry, they normally ask the cooperation of companies for specific data.

¹⁹⁶ As an example the German Federal Ministry of the Interior reported that there are still some errors in the recorded information (i.e., incomplete data or too general information) in the electronic national register of firearms. Also the Finnish National Police Board has reported a poor quality of data given the various changes in the recording system in 1998.

¹⁹⁷ Small Arms Survey 2007: Guns and the City, Chapter 2. Completing the Count: Civilian Firearms.

¹⁹⁸ According to the Small Arms Survey 2007: Guns and the City, Chapter 2. Completing the Count: Civilian Firearms, Poor-record keeping may come from weak official oversight, state secrecy, ideological or political opposition to transparency, a way of keeping records that inhibits national accumulation. Other obstacles may derive from the fact that the registration schemes miss firearms already in civilian hands before the entry into force of the system, the uncertainty about the categories of firearms which need to be registered and the rise of informal markets.

crime scene back to its owners/producer as in some MS the specific firearm may not have been subject to registration.¹⁹⁹ From this perspective, the different registration requirements and availability of data across MS in relation to alarm weapons and deactivated firearms limit the monitoring capacity of law enforcement authorities and the potential exchange of information and cooperation.

Box 9 – The information sharing requirements²⁰⁰

The information sharing as foreseen by the Directive contributes to the traceability of firearms. MS are required to exchange information on firearms transfers and on the authorization or prohibition of a category B, C or D firearms in their territories. In addition, MS have to inform the Commission (art. 15 section 4 and 5) on how they perform controls on external borders and if national provisions are more stringent than the minimum standards of the Directive.

The following issues were raised by stakeholders in relation to the exchange of information:

- National contacts points (art. 13) are not always clearly identifiable (LT, PL);
- Lack of transparency on the national rules applied to the different types of firearms (art. 8) (e.g., EE, ES, LV, an association for sport shooters and a Spanish firearms producer). The limited transparency on national rules and regulations generates a lack of clarity for the economic operators, who have reported some difficulties in intra-EU commercial relations when, for example, it is not clear if a firearm is allowed/prohibited and which are the specific rules to apply²⁰¹. Small and medium enterprises are particularly affected by the limited availability of information on the national implementation rules of the EU Directive, whereas big multinational firms are generally able to collect precise information thanks to their branches in different MS.
- Information on firearms' transfers (art. 11) is mainly paper-based (EL, LT, PL, SE, and industry representatives²⁰²). This exacerbates costs for both the industry and competent authorities and renders more difficult the traceability of firearms.

Finally, it is worth mentioning that the meetings of the Contact Group on Civilian Firearms in the Internal Market and the Firearms Committee contribute to the knowledge sharing and the diffusion of best practices.

3.5 Deactivation

European common guidelines on deactivation standards and procedures are still under discussion. This has left room for national differences as regards deactivation procedures. The provisions in the amended Firearms Directive are very similar to those of the UNFP. In the latter (art. 9), States which exclude deactivated weapons from their definition of firearms must establish a national verification mechanism by a competent authority to ensure that

¹⁹⁹ As an example when Italian front firing alarm weapons are exported to countries (e.g., France, Germany, Spain) where, not being considered as firearms, they are not registered, they cannot be traced anymore.

²⁰⁰ We include in this box some considerations in relation to the requirements foreseen by the Directive which require MS to exchange information or to communicate information via the Commission. These aspects are not explicitly included in the Terms of Reference but are worthy to be mentioned to provide a complete assessment of the provision related to traceability.

²⁰¹ This is the case, for example, of an Italian producer of imitations of antique weapons, which reported the obstacles encountered in exporting his products to Greece where these items have been blocked at the borders being not regulated by the national laws.

²⁰² According to 3 producers and to 5 representatives of industry associations.

deactivation is permanent. The authority will verify deactivation and issue proof of verification in the form of a certificate, record or mark. In the EU Directive, no exemption is made for MS which continue to define deactivated weapons as firearms. That is, such States should not need to verify deactivation, because deactivated weapons are treated in the same way as active firearms. In practice, national authorities also verify imported deactivated firearms in order to check that they meet the national requirements for deactivation (see previous section). This is however not a requirement in the EU Directive.

As a result, some MS treat deactivated firearms as firearms (as suggested by the UNFP), and have comprehensive legislation in place with regard to their registration (which is compulsory in EL, ES, IT, LU, MT, NL, PL, PT, RO, SE, SI).²⁰³ In 13 MS (AT, BE, BG, CZ, DE, EE, FI, FR, HU, LV, LT, SK, UK) it is common practice to take deactivated weapons out of the national firearms registry with the consequence that deactivated firearms are owned or possessed, and possibly sold and purchased without any licence or permit. This represents a potential security issue as it hinders the law enforcement capacities when tracing back a reactivated firearm found on a criminal scene to the original owner (see par. 2.2.1 for cases of reactivation of deactivated firearms). Moreover, having still the physical appearance of a functional firearm, deactivated firearms can freely circulate with potential risks due to their use for intimidation. In the majority of EU MS (AT, BG, DE, DK, EE, ES, FI, FR, HU, IT, LT, LV, NL, SI, SK, UK)²⁰⁴ the possession of deactivated weapons does not require a license.

As for deactivation techniques, although all MS report that deactivation is an irreversible operation making it impossible for common citizens to reactivate a firearm, different standards and procedures apply across MS, ranging from the destruction to the deactivation of the essential components (with further differentiations related to the national definition of essential components). For instance, as deactivation procedures apply to different firearms' parts in different MS (e.g. the chamber, the breech, the trigger mechanism and the barrel in Germany, the barrel or its cartridge chamber in Croatia), it is possible that a part which has not been deactivated in one MS (in accordance with the national deactivation procedure) can be illegally used to reactivate a firearm in an MS where the same part is normally rendered permanently inoperable. Moreover, differences in deactivation techniques lead to the circulation of deactivated firearms with different level of security (depending on the security of deactivation procedures (see par. 2.2.1 for cases of reactivation of deactivated firearms).

With respect to the authority responsible for firearms deactivation, in 3 MS it can be both a public and private authority (ES, IT, PT), in 5 MS it can be performed only by public authorities (BE, CY, FR, MT, SI) including Proof Houses for France and Belgium. Finally in 14 MS deactivation is performed only by dealers or authorised individuals (AT, BG, CZ, DK, EE, FI, HR, LT, LV, NL, PL, RO, SE, UK).

With the exception of SE, in all MS (AT, BE, BG, CY, CZ, DE, DK, EE, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, RO, SI, SK, UK), there is a public authority responsible for verification of deactivation procedures. In SE the Police may approve that a licensed dealer or repairman deactivates firearms, but the deactivated firearm would still be controlled as if it were a live firearm and it would remain in the police's records.

²⁰³ Source: "Study to support an Impact Assessment on a possible initiative related to improving rules on deactivation, destruction and marking procedures of firearms in the EU, as well as on alarm weapons and replicas" EY, 2014.

²⁰⁴ Source: "Study to support an Impact Assessment on a possible initiative related to improving rules on deactivation, destruction and marking procedures of firearms in the EU, as well as on alarm weapons and replicas" EY, 2014.

In this regard, the analysis conducted together with the opinion of some MS representatives (e.g. EE, FI, LU, LV, SE) and industry representatives²⁰⁵, let us conclude that common deactivation guidelines foreseen by the Commission would have a positive impact in terms of progressive harmonisation of procedures and reduction of threats to EU citizens' security by reducing the criminal activity linked to the reactivation of deactivated firearms.

3.6 Penalties

The Directive establishes guiding principles (i.e. effectiveness, proportionality and dissuasiveness) for MS authorities to set their own penalties for infringements of the national provisions adopted pursuant the Firearms Directive (art. 16). Based on our analysis, all MS foresee penalties for all the provisions of the Directive. The analysis has been transversal to different countries, focusing on one provision at time. We have verified whether any pattern of similarity emerges with respect to specific provisions or if they are treated differently across MS. Particular attention was paid to differences in national approaches for the same infringement, identifying any relevant trend (e.g., provisions more strictly regulated than others), and providing any useful insight on regulation. As regards this provision, the evaluation of the effectiveness is limited to the analysis of the coverage of the national systems of penalties and of their major differences.

Penalties vary significantly among MS²⁰⁶ from financial sanctions, to revoking of the license, to imprisonment, including therefore both administrative and penal sanctions. The lightest penalties are registered in Lithuania, where infringements are always punished with a fine, ranging from 29.02 Euros when related to the EFP (e.g. omission of relevant information to be registered on the EFP such as change of ownership) up to 116.07 Euros when related to licensing. The standout case is Cyprus, where penalties may result in up to 15 years imprisonment or/and a fine of 42,715 Euros, irrespective of the provision at stake.

Infringements of firearms licencing regulations can be considered criminal offences in many MS (AT, CY, DE, FR, FI, IE, LT, LU, MT, NL, PT, SE, SK and UK) including the top five countries per number of firearms on 100 population, i.e. Finland, Sweden, Malta, Cyprus, and Luxembourg.²⁰⁷

Infringements related to firearms deactivation may lead to imprisonment in 10 MS (AT, CY, DE, EE, ES, FR, IE, IT, MT and PT).

Also the infringement of marking requirements can be considered penal offences in 10 countries (AT, CY, DE, IE, IT, LU, MT, NL, PT, and UK). Considering that the marking requirements are mainly for producers, it is interesting to notice that Italy and Germany, which are among the top civilian firearms producers in Europe²⁰⁸, punish these infringements more severely²⁰⁹ than other countries.

²⁰⁵ An association representative of producers, an association of users and an Italian producer.

²⁰⁶ As an example the maximum custodial sanction for illicit firearms trafficking related offences goes from two years (for unlawful import) in Sweden to 10 years in France and 15 years in Cyprus. Source: Study to Support an Impact Assessment on Options for Combatting Illicit Firearms Trafficking in the EU, CSES, May 2014, under approval of the DG HOME.

²⁰⁷ Equal to 29.4% in Finland, 20.2% in Sweden, 19% Malta, 18.7% in Cyprus, 15.7% in Luxembourg.

²⁰⁸ Considering the export volumes of firearms as a proxy.

²⁰⁹ In IT and DE these offences are considered as criminal.

Finally, concerning the EFP, infringements are subject to penal sanctions in 5 MS (CY, DE, IE, MT, and PT).

In the end, the analysis highlighted a notable level of differentiation across MS in what concerns penalties related to firearms regulation infringements. These differences may be partly attributed to the fact that national security is mainly guaranteed through national regulations reflecting country-specific historical background and threats.

It is important to consider that, according to interviews, some MS competent authorities (ES, IE, LV, PL) expressed general satisfaction with the penalties applied to infringements of national rules pursuant to the Firearms Directive²¹⁰. Moreover, the low criminal activity linked to the use of legally owned firearms in some MS may further stress their adequacy.

4 Evaluation issues

14 years after the first evaluation of the Firearms Directive by the European Commission²¹¹, this study aims at assessing the consistency, the relevance, the effectiveness, the efficiency as well as the added value of the Directive.

We present in the following paragraphs the results of the evaluation based on the evidence collected from primary and secondary sources presented in the previous chapters and the key security aspects related to civilian firearms presented in par. 2.2.

4.1 *The consistency*

While fostering the harmonisation of MS legislation/procedures concerning firearms, the use of a Directive inevitably left a number of differences resulting from both national choices (as foreseen by Art. 3²¹²) about how to implement the various provisions and pre-existing national approaches.

First, differences relate to the interpretation of key terms included in the Directive. Essential components, brokers, alarm weapons and antique weapons are among the most controversial. The inconsistencies of EU legislation with the UNFP regarding the definition of essential components and the lack of clarity of the Directive in the definition of a broker, of the convertibility criteria for alarm weapons and of the criteria to define an antique weapon left room for national interpretations and led, in some cases, to security problems (i.e. trade in firearms parts, conversion of alarm weapons as presented in par. 2.2.1).

As regards categories, while existing national differences do not pose major concerns in terms of security, there are some obstacles to the functioning of the internal market. As for security, the comparative analysis of national legislation shows that all MS legislation is harmonised with respect to more dangerous firearms. 28 MS implemented both A and B categories, 3 of them implemented category A, B, and C and another 3 implemented categories A, B, and D. Therefore, major differences regard category C and D which, according to the Directive itself, include less dangerous firearms. Most MS adopted stricter rules on firearms included in category D possibly under the assumption that some security risks are

²¹⁰ Other interviewed MS competent authorities did not express any opinion on the issue.

²¹¹ COM(2000)837 Report from the Commission to the European Parliament and the Council, The implementation of Council Directive 91/477/EEC, of 18 June 1991 on control of the acquisition and possession of weapons.

²¹² "Member States may adopt in their legislation provisions which are more stringent than those provided for in this Directive, subject to the rights conferred on residents of the Member States by Article 12(2)". (Art 3 of the Firearms Directive).

linked to these firearms. However, while it is not possible to exclude these risks, no empirical evidence of crimes or offences committed with legally held category D firearms²¹³ was found.

As regards the functioning of the internal market, the analysis makes it clear that firearms categories as adopted by MS do not contribute to firearms movements across Europe. Differences in national interpretations generated information costs for economic operators and MS competent authorities which need to have information on the specific national rules applied to firearms moving cross-country.

Also the level of differentiation in ownership requirements has not led to major security issues. Most MS implement stricter requirements than set by the Firearms Directive (e.g., the strict definition of "good reasons" to own a firearm or the various proofs required by competent authorities as a demonstration that the applicant is not a personal/public threat such as medical certificates and safety storage). The widespread adoption of such requirements led to a remarkable level of harmonisation and to a high level of security. Nonetheless, the fact that the majority of MS have adopted stricter criteria let us conclude that national requirements were in force before the entry into force of the Directive, and that the Directive has contributed only to a limited extent to this result. MS which had no or less strict requirements were obliged to be compliant with the Directive, but it is quite unlikely that they decided to go beyond and implement criteria stricter than the minimum required. In other words, the Directive contributed to the harmonisation of ownership requirements mainly across MS where these were less stringent than the minimum standards and to a lesser extent among MS having already stricter requirements.

Through the introduction of the European Firearms Pass the Directive achieved a significant level of harmonisation of MS legislation regarding the movement of hunting and sport shooting firearms. The EFP substitutes the number of documents that were previously requested from hunters and marksmen to move across MS and it has been adopted by all MS. The reported differences in terms of fees and documents for issuance/renewal appear to be marginal if compared with the benefits achieved for the specific stakeholder category of hunters and marksmen who hunt or practice in another EU country. The proposal made during the study²¹⁴ to extend the scope of the EFP to firearms collectors is a further confirmation of the effectiveness of this provision. Reported obstacles to the cross-border movement of hunting and sporting firearms relate more to national choices implementing the Directive's provision (i.e. limits in the number of firearms that can be registered in the Pass, request for additional documents when entering an MS for hunting or sport shooting activities, and request for an invitation to a competition as the only accepted proof of hunting or sport shooting activities) than to the provision itself that seems to be clear (see also par. 3.3).

Differences in marking standards adopted at national level (i.e., different number and types of firearms parts to be marked, and use of different marking techniques and procedures) pose some security issues limiting law enforcement ability to trace firearms or to fight illicit trafficking.

Even though reported offences linked to erased/altered marks are numerically negligible and national computerised data systems are expected to come into force by the end of 2014, differences regarding essential components to be marked remain. On the one hand, the

²¹³ Data on crimes disaggregated per EU categories of firearms are not available from national police departments involved in the study. Nevertheless, no stakeholder reported cases of crimes committed with legally held category D firearms.

²¹⁴ Made by an association representing arms collectors.

problem arises from the failure of some MS to treat essential components as firearms. On the other hand, it arises from the exemption of essential components in the marking obligations of the Directive.

The legal analysis has shown a remarkable level of differentiation among MS with respect to deactivation procedures, authorities/bodies responsible for deactivation and requirements applied to deactivated firearms. Such differences raise concerns mainly with respect to security.

First of all, as illustrated in par. 3.5, the lack of common deactivation standards and different interpretations of the Directive's requirements lead to circulation of deactivated firearms with diverging levels of security (depending on the deactivation procedures applied) and hinder the law enforcement authorities to trace firearms.

Secondly, trade of firearms parts that have not been permanently deactivated and can thus be used to build or reactivate a firearm can occur (see par. 2.2.1 for further evidence). Since the Directive's provision on deactivation requires MS to deactivate all essential components and given that the interpretation of essential components varies across MS, it is possible that firearms components, which are compulsorily deactivated in some MS, are still available in others. This raises a notable concern regarding the circulation of firearms components that can be used to reactivate a deactivated firearm.²¹⁵

Documented cases of reactivation of deactivated firearms (see par. 2.2.1) put into question the level of security granted by the existing procedures.

Moreover, given the differences between the deactivation procedures in use by MS, and the lack of transparency on technical standards applied at national level, MS may not recognise the validity of deactivation procedures implemented in other MS.²¹⁶ National authorities tend to verify that deactivated weapons brought into the country from other MS meet the national deactivation standards.

Another area of differentiation, which proved to have potential security consequences, relates to the designation of the authorities entitled to carry out²¹⁷ and/or certify the firearms deactivation/destruction. In case of lack of a central control, it may occur that space is left for criminal activity, with cases of deactivations not properly carried out followed by the introduction of illegal firearms in the market (see par. 2.2.1).

Last but not least, different firearms legislations across MS raise difficulties in law enforcement across borders. Different rules for the purchase and transfer of gas pistols interfere with the ability of one national police force to fight the illicit trafficking of converted alarm weapons. For example, when Italian front firing alarm weapons (considered as firearms according to the national legislation) are exported to Germany, France, Spain or Austria, they are not considered firearms and they stop being traced by national police. In case of criminal acts

²¹⁵ In this regard, as an example, France reported a number of cases deactivated firearms which were reactivated thanks to the use of essential components bought from other Member States where the deactivation affected different parts or where the deactivation procedures were not permanent (Source: Note des Autorités françaises sur les problèmes juridiques liées aux définitions et approximations continues dans la Directive Européenne 91/477/CE – 18 June 2014).

²¹⁶ This was the case, to make an example, of the Netherlands where firearms deactivated in Hungary were not accepted in the country. A recent Court decision has changed the framework and now the Police should recognize the validity of the deactivation certificate issued by the Hungarian competent authority.

²¹⁷ The deactivation of firearms may be carried out by authorised individuals holding a license or permit issued by the police (including professional dealers, repairers, manufactures).

involving such weapons, differences in firearms legislation make it impossible for law enforcement authorities to trace back the weapon to the original owner if it comes from or has passed MS where its registration was not required.

In light of the wider policy context (see par. 1.2.2) of this Directive and of the international scale of some of the security issues discussed, the consistency of the Directive with other pieces of legislation appears to be of the utmost importance. The Commission needs to be aware of developments in the relevant international processes. The analysis has raised, for instance, ambiguity around the definition of essential components (as included in the Directive) and parts and components (as included in the UNFP); whether essential components should be considered only as the ones indicated in the Directive or include additional parts as suggested by the UNFP; whether to consider deactivated firearms as firearms (as suggested by the UNFP) or not. All inconsistencies among the two pieces of legislation deserve an in-depth analysis as they may leave room for cross-border criminal activity together with uncertainty for MS competent authorities responsible for implementing firearms regulation. This inconsistency is, for instance, at the origin of cases of illicit trade of firearms parts and reactivation of deactivated firearms. Although there is limited evidence, cases of reactivation of deactivated firearms represent a security concern for police forces throughout the EU. The EU is indeed in the current legal framework unprepared to address the potential risks of reactivation as common technical guidelines are still under preparation and deactivated firearms with different levels of security increase the volume of illicit traffic in EU.

Uncertainties among MS may also derive from inconsistencies of the Firearms Directive with Directive 2009/43/EC on defence-related products (and namely the Military List). Theoretically there are no overlaps between the two pieces of legislation as the Firearms Directive excludes (art. 2.2) “weapons and ammunitions for the armed forces, the police and the public authorities” and the Directive on defence-related products does not apply to ‘smooth-bore weapons used for hunting or sporting purposes. These weapons must not be specially designed for military use or of the fully automatic firing type’. Nonetheless the definition of categories of the Firearms Directive and the military list leave room for national interpretations and require the presence of a national institution (e.g. Proof House, the Police, etc.) responsible for the classification of a firearm as military or civilian. This is particularly true in relation to semi-automatic weapons that are indicated in both the Firearms Directive (category B for civilian use) and the Military List (class ML1 if specially designed for military use). In this regard, there is a lack of clarity on: which is the responsible institution to judge whether the intended design is for civilian or military end-use? Which type of criteria should guide the assessment: the technical specifications or the end-user? Questions remain whether the technical specifications are universally accepted and interpreted in the same way across MS and whether there is ongoing information sharing on these criteria.

These unclear aspects leave room for potential overlaps between the two pieces of legislation (that a similar weapon could be classified as military in one EU MS and civilian in another) and suggest the need for an in-depth analysis on types of firearms subject to the Firearms Directive and the military list in different MS to assess precisely the scope of these overlaps. Furthermore, some minor inconsistencies exist between the EU Firearms Directive and Directive 2009/43/EC on defence-related products with regard to antique weapons and replicas, in terms of definitions of the two categories. In Directive 2009/43/EC, replicas seem to mean functional copies of antique weapons, and the cut-off date for antique weapons are 1890 or 1938 depending on the type of weapon. Replicas and antique weapons are not defined in the Firearms Directive.

To conclude, the analysis of the implementation of the Directive’s provisions at national level has highlighted a number of differences in the way it is applied across MS. In most cases these differences are the source of market and security concerns. On one side, differences in the

implementation of categories and the restrictive interpretation of rules to be applied to the EFP lead to burdens and obstacles to the cross-border movement of firearms. On the other side, differences in marking and deactivation standards may lead to security threats (e.g. conversion of alarm weapons, erased marks, trade in firearms parts). The scope of the Directive is generally clear, for the definition of “convertibility” as it leaves room for uncertainty on the classification of alarm weapons across MS.

4.2 *The relevance*

This paragraph aims at assessing the extent to which the Directive is still relevant to both current market needs and security risks experienced at national and EU level. In order to evaluate the relevance of the Firearms Directive we have started identifying market needs as expressed by economic operators involved in the study, and security needs, mapping the current and emerging security risks and threats at EU and national level as reported by stakeholders and documented in secondary sources (see par. 2.2.1). Finally we matched the main market and security issues with the Firearms Directive’s provisions to assess the extent to which the Directive is still adequate and to evaluate its relevance to current and emerging issues that can be traced back to the scope of the Directive.

As for the market, the Firearms Directive appears to be fully relevant to the needs of cross-border movement of firearms. Concerns raised by economic operators (see par. 3.1) and users (see par. 3.3) are mainly related to the interpretation room left by the Directive to MS and the resulting heterogeneous implementation at national level and not to the Directive’s specific provisions. These concerns essentially refer to obstacles and burdens generated by different classifications of firearms, different rules applied to the same type of firearm and different procedures and requirements adopted at national level (see par. 4.4 for further details). All these differences require MS, economic operators and users to collect information on national rules and requirements prior to commercial relationships or cross-border journeys. Other issues raised during the analysis mainly relate to inefficiencies of the national public administrations (e.g., in issuing import and export permits or in tools used to deal with transfer procedures described in art.11 of the Directive – see par. 4.4). If the first aspect can be addressed at EU level deciding to introduce stricter requirements or enhancing the transparency on national firearms categories and related regulations, the second aspect relates more to decisions taken at national level.

In terms of security, the Firearms Directive proves to be relevant to most current security risks.

The adequacy of the Directive strictly depends on the nature of problems and their origin. There are indeed some issues that are directly linked to the Directive’s provisions and its scope (e.g. conversion of alarm weapons, reactivation of deactivated firearms) and others (e.g., the existence of an illegal pool of inherited firearms or cases of altered or erased marks) that are not covered by the Directive.

Specifically, trade in firearms parts and cases of reactivation of deactivated firearms challenge the focus on “essential components” in the Directive.²¹⁸ The Directive requires a mark to be affixed to an essential component of a firearm, the destruction of which would render the firearm unusable, and not to all essential components. By disassembling a marked

²¹⁸ For the purposes of this Directive “essential component” shall mean the breach-closing mechanism, the chamber and the barrel of a firearm which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted.

firearm and selling the parts separately, a number of unmarked essential components may enter the market, enhancing the reactivation of deactivated weapons. This further supports the need expressed by some interviewees²¹⁹ for a clear definition of what has to be considered as an essential component.

According to the UNFP and the Directive, all essential parts of a deactivated firearm are to be rendered permanently inoperable and incapable of removal, replacement or modification in a manner that would permit the firearm to be reactivated in any way.²²⁰ Deactivation can be defeated by substituting essential parts that have been deactivated with the same that have not. This requires access to essential parts, and therefore it is important that their sale and distribution is properly regulated. Proper regulation is facilitated by marking, so that their production, sale and ownership can be traced. According to Annex I of the Directive, the definition of a firearm includes not only the assembled weapon, but also any essential component of such firearm. This could be interpreted to mean that all essential components of assembled firearms should be marked, not only one.²²¹

“Convertibility” is another term that has left room for national interpretation. It is at the origin of divergent approaches to the classification and regulation of alarm weapons which have contributed to the number of conversions of alarm weapons into firearms shooting live ammunition. The EU definition of firearms includes convertible alarm weapons but the Firearms Directive does not include a definition, standard or guidelines on what items are convertible.²²² It is clearly stated that some items are convertible through their construction and appearance, but what that specific construction, material or appearance is, is not defined. Notably, it is enough that an item is “convertible”—not easily so—to be classified as a firearm in the Firearms Directive. With the lack of criteria for the convertibility of objects into firearms, MS may look for direction elsewhere in the text. They find it in the definition of Category B weapons “Firearms subject to authorization”: “Semi-automatic long firearms whose magazine and chamber cannot together hold more than three rounds, where the loading device is removable or where it is not certain that the weapon cannot be converted, with ordinary tools, into a weapon whose magazine and chamber can together hold more than three rounds”. The lack of clarification around what constitutes “convertible” with regard to objects other than firearms, together with the above guidelines, enables MS to think that convertibility depends on the possibility to do so “with ordinary tools”. This leaves further space for differences in national definitions and approaches and creates “weak points” in the system which criminals may take advantage of.

²¹⁹ Poland, Netherlands, an Italian producer, an Italian representative of gunsmiths, a Finnish association representing dealers.

²²⁰ The UNFP has a different, broader, definition of essential components of a firearm called ‘parts and components’. “Parts and components” shall mean “any element or replacement element specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound caused by firing a firearm”.

²²¹ Criminals can buy, for example, essential components that are considered as such in a MS, in other MS where they are not deactivated or marked

²²² According to the Directive 2008/51/EC Firearm shall mean “any portable barrelled weapon that expels, is designed to expel or may be converted to expel a shot, bullet or projectile by the action of a combustible propellant [...]. For the purpose of this Directive, an object shall be considered as 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 terms “essential components” and “convertibility” are the two most questionable aspects of the Directive if compared with the current security risks mapped across MS. The other issues identified can be traced back to the Directive only to a limited extent.

Cases of altered or erased marks are an issue where the subsidiarity principle should be taken into account when assessing the relevance of the Directive. While defining the minimum information to be marked and identifying the essential components that can be marked, the Directive leaves MS the choice of the most effective marking techniques, thus sharing with MS the commitment to maintaining high levels of security. In our view, risks related to erased marks should indeed be dealt with primarily at national level, but with the support of the EC to spread best practice or new technology across MS.

In relation to firearms thefts, it is important to notice how the adequacy of the Firearms Directive appears not to be challenged. It is indeed worth mentioning that the focus of this Directive is the functioning of the internal market, meaning the support of cross-border movements of firearms while guaranteeing the security of EU citizens. Internal security is an exclusive competence of each MS until a national risk becomes a risk for the EU as a whole which currently does not appear an issue for firearms theft. Firearms theft currently appears to be an issue only for a selection of MS and, as a further confirmation, some MS have already introduced specific safety storage requirements in their national law to prevent theft. Data available from the SIS in 2014 do not identify any link between MS adopting safe storage requirements and stolen firearms. Only in case interventions at national level prove to be inadequate to control theft (based on a specific analysis of dynamics of firearms theft), these latter should be considered an issue for the Directive’s relevance.²²³

The use of new technologies such as 3D printing and internet sales deserve to be mentioned as an emerging issue that is drawing the attention of policy makers both at EU and international level. While challenging the established requirements for the manufacture and sale of firearms, these technologies may pose serious concerns in the future and they need to be adequately monitored. The Directive appears to be adequate²²⁴ to face current concerns in this regard as it clearly establishes that the sale of firearms through distance communications, including the Internet, is subject to the rules of Directive 91/477/EEC and prohibits any unlicensed manufacture. Nonetheless in the future the Commission may evaluate the possibility for legal production of 3D printed firearms or firearms parts (by licensed subjects), with related implications on the need for introducing specific standards for their construction and materials (e.g. polymers), the techniques and standards for marking so as to be adapted to new materials and deactivation techniques taking into account their construction process.

The potential convertibility of semi-automatic weapons into automatic weapons is another emerging issue that should be further analysed and approached at EU level given the related security risks linked to the possibility of conversion of these weapons into automatic weapons and the documented availability of public information on how to convert them (see par. 2.2.1).

²²³ As an example in France 67% of stolen weapons in 2011 were hunting firearms that are not subject to special conservation measures (see case study on France).

²²⁴ As stated in the latest Communication of the European Commission presenting the priorities for future actions of the EC and other key stakeholders in the fight against illegal trafficking, Europol will develop a manual for combating internet-based firearms trafficking and the Commission will support the creation of cyber patrol teams in MS. It will also consider the feasibility and proportionality, from a security perspective, of an outright ban on the sale and purchase over the internet of all or certain firearms, components and ammunition in the EU (Source: COM (2013) 716 final, Firearms and the internal security of the EU: protecting citizens and disrupting illegal trafficking).

Overall the Firearms Directive proves to be relevant to current market needs. Concerns raised by economic operators do not relate to the Directive itself but rather to the different implementing measures and procedures that MS have adopted. Such heterogeneous measures lead to additional burden and costs that impact negatively the cross border movement of firearms. As for security, most concerns at EU level fall within the scope of the Directive. Specifically, the terms “convertibility” and “essential components” are the two aspects at the origin of most of concerns and that deserve an EU intervention. Other concerns relating for instance to altered or erased marks and firearms thefts, have a more local dimension and would require improved sharing of responsibilities among MS to adequately address them.

New technologies (e.g. 3D printing) and new sales channels (e.g. internet) may challenge in the future the scope of the Directive, which for the moment seems to be adequate to face current concerns.

4.3 *The effectiveness*

As for internal market objective, the introduction of categories and related regulatory regimes allowed to prevent potential market distortions linked to the abolition of internal controls. The internal market has been created and overall intra-EU trade has remained pretty much stable since 2005 (see Figure 5). Nonetheless, the different interpretations at national level have limited the magnitude of the expected benefits of EU intervention and representatives of industry and users²²⁵ raised a number of concerns related to specific obstacles and burdens on producers, hunters and marksmen created by heterogeneous implementation of the Directive at national level (e.g. information to collect to know whether a type of firearm can or cannot be transferred into another MS or to know the requirements/procedures to be fulfilled when entering the country).

Economic operators (producers, dealers and brokers) and users bear information costs²²⁶ to understand rules and procedures in force in other MS, and this makes trade among MS time-consuming and more costly. Such information costs may be significantly reduced by improved accessibility and availability of information on the implementation of the Directive at national level. The latter highly depends on the implementation of the information sharing requirements foreseen by the Directive. To date, information sharing among MS is still not fully operational, and information on national implementing regulations is not always accessible with a negative impact in terms of both effectiveness and efficiency.

Improved exchange of information is actually promoted by the Commission and this is welcomed by MS to reduce information costs linked to differences in national regulations, to share best practice and more generally to increase transparency on national approaches to the implementation of the Directive. In this regard, the Commission, having established in 2009 a Contact Group on Civilian Firearms in the Internal Market dedicated to the cross-border transfers of firearms, established in 2013 a Firearms Committee dedicated to handle all legal and administrative issues related to the implementation of the Directive. Even though it is too early to assess the results achieved by these groups, the exchange of information and best

²²⁵ According to 5 producers and to 8 associations representing producers or dealers involved in the study.

²²⁶ As stated by one of the biggest companies in the civil firearms sector, information costs are mainly relevant for small and medium companies. While international companies may rely on the existence of branches in different MS to adequately understand national requirements and procedures, small and medium companies face bigger obstacles and need to find alternative channels of information (e.g., EU industry association, national competent authorities) and this may sometimes takes a long time to get an answer.

practices that is taking place is likely to positively contribute to the overall effectiveness of the Directive, reducing information asymmetries and spreading best practices in terms of implementing procedures.

The deep and comprehensive knowledge of existing implementing rules at national level by different MS is key to the overall effectiveness of the firearms' sector.. Once information on the implementation of the Directive is available to and understood by all MS, national competent authorities can indeed better inform interested stakeholders on specific requirements to be taken into account in intra-EU economic transactions or cross-border journeys.

Focusing on the cross-border movement of hunting and sport shooting firearms, the positive impact of the Directive provisions is confirmed. Obstacles to the free movement of marksmen are limited and have originated from the fact that firearms commonly used for sport shooting may be forbidden in some MS (e.g. parabellum 9 mm in Italy) or to the request by a few MS of additional documents (additional to the EFP) when entering their countries. The EFP proved to be an effective measure, strongly contributing to simplification of procedures for the transfer of hunting and sport shooting firearms across MS.

The derogations allowed to hunters and marksmen through EFP proved not to be a danger for the security of EU citizens.

Regarding the security objective, the level of security and protection against criminal acts and illicit trafficking has been improved mainly through the introduction of additional tracing requirements for MS competent authorities (i.e., establishment of the computerised data filing system in which all firearms subject to the Directive shall be recorded) and for dealers (i.e., the maintenance of a register of all firearms transactions). The comprehensiveness and accuracy of information on firearms and firearms owners available to law enforcement has improved remarkably and is expected to further increase once all the national computerised data systems are fully operational. Nonetheless, in some cases, dealers' registries are still paper based (e.g., FR, ES, LU) and not connected with the central systems of firearms owners. This aspect, together with the paper based authorisation procedures for firearms transfer/transit may limit the tracing capacities of law enforcement, making it more difficult to search for a firearm. Once all national systems are implemented, the real issue will be to understand how and if information collected will be used at EU level (e.g., possible queries, interoperability of the systems) and to what extent it would serve the overall objective of the security of EU citizens. Better understanding of the computerised data-filing systems that are entering into use in MS could facilitate quick information exchange by making it easier to prepare information requests in a format that can be processed easily through the existing systems. A deep understanding of the structure of the national data filing systems is indeed the first step towards an effective exchange of data among MS.

The introduction of marking requirements has also positively contributed to the same objective of improving the tracing of firearms as all MS appear to mark the same information on firearms, strengthening law enforcement capacities in solving cross-border criminal offences involving civilian firearms.

Evidence of police having seized firearms with marks erased in some MS (see par. 2.2.1) limits the potential benefits of the adoption of common minimum information to identify a firearm, challenges the security of different marking techniques used by MS, and raises the issue of a need for import marks to be used more extensively. This risk appears to be particularly reduced in CIP countries where all firearms entering the market are subject to proof-tests and, in addition to the marks of manufacturers, proof-marks are impressed on the tested weapons. The lack of Proof Houses (or other competent authority for proof tests) in some MS does not fully protect the EU from risks implied by the circulation of unmarked firearms as in these countries there is no additional control than the ones of manufacturers/importers.

This may suggest that the impact of common marking requirements strongly depends on the capacity of MS competent authorities to exploit the information base they contribute to create (e.g., how information are used for enquiries, how controls are conducted, how information are stored – paper registries or computer, etc.). In this regard it is important to mention that the full implementation of the computerised data-filing system by MS is expected to positively contribute to the impact of the marking of common minimum information.

The establishment of a minimum requirement for ownership (i.e., minimum age, the need to have a documented “good reason” and to demonstrate not to be a private/public danger) together with definitions of minimum and common danger thresholds for firearms circulating in the EU preventing MS from adopting too flexible regulations (i.e., the regime of the Directive cannot be lessened) are also conditions that have increased overall security.

To conclude, it is worth mentioning that our analysis of the achievements in terms of security has been limited by the current lack of a comprehensive information base including specific and detailed data on criminal offences committed with legally owned firearms, converted alarm weapons, reactivated firearms in EU MS. This is one of the major obstacles preventing policy makers from designing evidence-based policies dealing with civilian firearms.

Overall, we conclude however that the Firearms Directive has positively contributed to the functioning of the internal market but its potential contribution could be further improved. Positive impacts may be highlighted in relation to the introduction of categories and related regimes, which have prevented potential market distortions linked to the abolition of border control. Nonetheless differences in national implementing rules have limited the magnitude of the expected benefits of EU intervention and to a minor extent created some obstacles to the movement of hunters and marksmen. As for security, it has improved through the introduction of tracing requirements for MS and dealers/brokers and through the marking of common information of firearms circulating in the EU. Nonetheless cases of conversion of alarm weapons, of reactivation of deactivated firearms and of illegal trade in firearms parts suggest that there is room for improvement.

4.4 *The efficiency*

The Firearms Directive has introduced various obligations which entail both costs and administrative burden. Some of them – such as costs related to the registration requirement for dealers or to the creation of national computerised data systems - are due to the introduction of rules and procedures which were not foreseen in national legislation. Others – such as costs to raise awareness of the new requirements – are costs required to implement new laws. Furthermore, the different types of costs affect different stakeholders.

To assess whether the Directive’s objectives have been achieved at a reasonable cost, we identified the costs related to the activities needed to implement each provision and mapped the different stakeholders involved in – and responsible for – each activity (see Table 13).

Costs analysed include direct compliance costs (including administrative burden, and substantive compliance costs) and information costs.²²⁷

Direct compliance costs relate to all the procedures needed to adopt the Directive at national level. Administrative burdens are costs imposed on businesses²²⁸ and users, when complying

²²⁷ The terminology here used refers to: *Assessing the costs and benefits of regulation*, Study for the European Commission - Secretariat General, by the Centre for European Policy Studies and Economisti Associati (2013). http://ec.europa.eu/smart-regulation/impact/commission_guidelines/docs/131210_cba_study_sg_final.pdf

with information obligations stemming from government regulation as well as costs for MS authorities to implement additional procedures. Substantive compliance and in particular recurrent costs relate to procedures needed to implement provisions, for instance, to keep and upgrade dealers' registers. Finally, information costs are due to national differences in the Directive's implementation which may oblige MS, producers and users to get informed about requirements in force abroad. Information costs may also be supported by MS competent authorities, producers and users to familiarise themselves with new domestic requirements. The table below focuses on the obligations and procedures required by the Directive to all MS as minimum requirements. It does not include costs due to implementation of additional requirements as well as costs brought by national implementation differences.

Table 13 – Administrative burden and costs entailed by the implementation of the Firearms Directive and affected target groups

Directive's provisions	Administrative burden/costs and affected target groups
Categories	<ul style="list-style-type: none"> To raise awareness about the Directive requirements and to adopt them within the national working practices - MS To learn how to use them – all
Ownership, dealers and brokers	<ul style="list-style-type: none"> To run controls needed to authorise the activity (dealers/brokers) as well as the ownership of a firearm – MS To issue the licence and its renewal (when applicable) - MS To regularly check the dealer's registers and to archive the registers at the end of a dealer's activity - MS To collect documents requested by competent authorities – Private owners/Dealers/Brokers To record all firearms they receive/sell and specify the details that enable a firearm to be identified – Dealers
European Firearms Pass	<ul style="list-style-type: none"> To control the documents provided by hunters and marksman and to implement the administrative procedures needed for the EFP issuance/renewal - MS To collect the documents required by the national rules - Hunters and marksmen
Information sharing	<ul style="list-style-type: none"> To set/manage a national contact point responsible for transmitting/receiving information on the Directive implementation at national level and for providing any clarifications on the national rules to other MS – MS To communicate to the EC how they make controls on weapons at external EU frontiers as well as if they adopt more stringent laws than the minimum standards - MS To exchange information related to the procedures of firearms transfer – MS/Dealers/Producers
Marking and traceability	<ul style="list-style-type: none"> To mark firearms at the time of manufacture and, in CIP members, pay for the safety tests performed by the national proof houses - Producers To mark all imported firearms that have no mark or whose mark is not compliant with the directive requirements – Dealers To implement a computerised data-filing system for all registered firearms (to build up a dedicated IT infrastructure and renovate to a certain extent the working practices of the personnel in charge of feeding the system) – MS

²²⁸ As an example, part of the administrative burden on producers/retailers can be linked to the respect of specific requirements for the selling of certain types of firearms that before could be freely sold.

Directive's provisions	Administrative burden/costs and affected target groups
Deactivation	<ul style="list-style-type: none"> To control the appropriateness of the deactivation procedure and to issue a certificate/record attesting to the firearm deactivation or to mark the deactivated firearm – MS

Source: EY elaboration

After the identification of the main costs, we tried to assess if they are reasonable taking into account the results of the Directive's implementation. Collected data and information in this regard are mainly qualitative and did not allow quantifying the costs, thus we identified three main criteria to qualitatively assess whether costs related to a specific provision can be considered reasonable according to a stakeholder's point of view, that is:

1. *Objectives served*: costs incurred to achieve results relating to more than one objective (see the intervention logic in par. 1.2) appear to be more reasonable and aligned with the integrated perspective of the Directive;
2. *Stakeholders' participation*: costs distributed among stakeholders that have a direct or indirect interest in the provision and may benefit from it are more reasonable;
3. *Nature of the cost*: infrastructure costs burden stakeholders more than information or administrative costs and thus may be considered less reasonable.

We assessed (see Table below) the costs related to each provision previously identified in Table 13 towards each criterion, marking them with + in case they satisfy the evaluation criterion and with - in case they do not. An overall rating is thus assigned to each provision based on a qualitative assessment of the balance between the ratings assigned in relation to each criterion. In case the costs satisfy the majority of the identified criteria, they may be considered reasonable and are indicated with the letter "R".

Table 14 – Assessment of costs and burdens of the Directive's provisions implementation

PROVISIONS	Objectives served			Stakeholders' participation	Nature of the costs	Overall rating
	Cross border movement of firearms	High level of security	Overall			
Categories	✓	✓	+	+	Informative costs	R
EFP	✓		+/-	+	Administrative burden	R
Information sharing	✓	✓	+	+/- ²²⁹	Informative and management costs	R
Licensing for owners/dealer/broker	✓	✓	+	+	Administrative burden, management costs	R

²²⁹ The majority of information-sharing costs fall on MS even though the benefits accrue to all identified categories of stakeholders. This is due to the added value of this provision which works similarly to public goods and induces external benefits and contributes to all operational objectives.

PROVISIONS	Objectives served			Stakeholders' participation	Nature of the costs	Overall rating
Marking and traceability	v	v	+	+	Infrastructural and informative costs	R
Deactivation		v	+/-	+	Administrative burden	R

Source: EY elaboration

Table 14 shows that overall results have been achieved at a reasonable cost. All the provisions are marked positively with respect to the first two criteria. Most of the times costs are associated to results linked to both specific objectives of the Directive and are fairly shared among different stakeholders.

The costs in Table 14 are direct costs to implement the provisions of the Directive, but we should also consider that the partial harmonisation of MS legislation and procedures regarding firearms results in indirect costs.

Differences in national implementation of the Directive induce a "snowball effect" with negative consequences on other objectives and negative impacts on some categories of stakeholders, depending on the specific provision. Limited harmonisation challenges the overall efficiency of the system as it creates administrative burdens to fulfil different requirements across MS. Furthermore, as mentioned before, differences in MS legislation and requirements create information costs for MS competent authorities, economic operators and users.

In what follows, we provide some examples of costs related to key provisions due to differences in national legislation and procedures. The analysis includes also some good practices of reduction of administrative burden and costs as well as insights to optimise the overall efficiency of the Directive.

The EFP creates remarkable advantages for hunters, marksmen and Public Administrations (see par. 3.3 for further detail on the impacts of this provision). One single procedure to move across Europe has indeed substituted a multitude of requirements requested in the past. Nonetheless, if all MS applied just the minimum requirements imposed by the Directive, the overall savings would be significantly greater. Indeed, most MS have taken stricter rules than those foreseen in the Directive. For instance, the Directive does not impose any fee for the issuance of the EFP. Despite that, as reported in the previous paragraphs, 17 MS issue the EFP conditional upon payment of a fee and 16 of them impose a fee also for the renewal of the EFP, with the level of fees varying among countries. As regards EFP seekers, besides the fees they are requested to pay in some MS, there are information costs due to the different documents and requirements across MS. For instance, to enter UK, Sweden, Luxembourg, and Ireland a hunter is required to provide additional certificates. This situation induces costs not only for the hunters, but also for the MS competent authorities responsible for the issuance of such documents. Thus, if we assume that before the Directive came into force each MS had its own procedures to regulate the movement of hunting and sporting firearms, the EFP is surely a benefit (single multiannual document). However, this benefit is partly undermined by differences in the implementation of the provision and this leaves room for improvement depending on the level of harmonization across MS.

The Directive categories are expected to lead to savings as they should facilitate harmonisation and transparency. However, different categorisations persist at national level and this raises a number of concerns in terms of market efficiency. The analysis highlights two major issues: information costs and market distortions.

As regards information costs, a number of MS adopted the four categories of the Directive further detailing the list of firearms included in each category. This may create cases of mismatch between European and national categories. Furthermore, the typologies of firearms included in each category differ among MS. As a consequence, when transferring an arm, producers and dealers have to check if it fits the same category both in the sender and the recipient country and if it is thus subject to the same requirements. These control costs might be reduced through increasing the transparency and the access to information about the categories in force within MS and the firearms included in each category. For instance, Germany has a comparative table which shows how national categories are connected with the European ones. This system might be digitalised and centralised to make information accessible at a lesser cost and in a reasonable time and thus to reduce the overall costs (see recommendation 1 in par. 5). By the way, information costs due to different national categorisations would be completely removed if the four categories were used in the same way by all MS. A binding adoption of the four categories by MS would increase the overall efficiency of the Directive, at the same time inducing costs at MS level that cannot be defined within this study. The overall cost-effectiveness of such an option is therefore not easy to be assessed. This is true also with respect to tracing needs which would be better met if all MS Police departments used the same categories.

Similarly, market distortions may arise when MS adopt stricter criteria than those foreseen in the Directive. In this case, the production and transfer of firearms may be incentivised to concentrate where requirements are less stringent in order to lower the production and trade costs. This may induce market bottlenecks and limitations to the cross-border movement of firearms.

With respect to costs induced by information sharing procedures, according to 18 out of 23 responding MS representatives these are not considered as a burden, and 6 out of 12 responding industry representatives and 9 out of 11 responding users' representatives consider their information obligations proportionate to the risks linked to firearms. Communication costs to inform the EC in case of stricter criteria adopted by some MS are negligible as they are a one-time burden for each new legislative modification. In relation to procedures for transfer some improvements may be achieved as they are currently paper-based, thus limiting the overall transparency and the accessibility of information. Costs incurred to exchange transfer information would be reduced if the information exchanges were centralised and fully digitalised. Finally, costs to set and manage contact points foreseen by the Directive seem to be counterbalanced by advantages in terms of mutual policy learning. During contact group meetings, experts have the opportunity to share information about problems incurred both at European and national level. At the same time, they share knowledge about possible solutions to be implemented. Contact groups are able to trigger a "learning by interacting" mechanism that can be useful to reduce information costs due to uncertainty and knowledge fragmentation.

The Directive induces some costs for dealers and brokers who are requested to fill in, update and keep a register for all their transactions. Further administrative burden arises to control and archive dealers' registers. These costs leave room for improvement as shown by good practice in Sweden. Here, the centralised data-filing system has a specific section for dealers' registers which can thus be controlled more quickly by competent authorities that do not have to look into paper based registers as in most MS. This practice may contribute to the reduction of control costs.

As regards firearms ownership, a further good practice concerns costs to authorise the activity of hunters. France has authorised the National Hunting Federation and dealers to have access to the electronic system held by the Ministry of Interior (FNIADA) recording all persons subject to prohibitions. For new hunters or hunters aiming to renew their hunting license, the

National Hunting Federation checks the electronic register to verify the personal integrity of the new hunter. Similarly, dealers may have access to FNIADA to check if a customer has any restrictions before selling them a firearm under declaration (category C). This practice has partially reduced the administrative burden upon public authorities responsible to control all new and registered hunters/firearms' buyers.

As regards deactivation, it is worth mentioning the existence of costs related to licensing requirements to buy or own a deactivated firearm in the 9 MS where these items are considered as firearms. These costs result from the choices of national competent authorities as the Directive does not consider deactivated weapons as firearms anymore but may be necessary if deactivation techniques do not guarantee enough security or the responsibilities in the implementation of deactivation procedures is highly fragmented.

As for traceability, there are costs related to the integration of dealers' registries with the central computerised data-filing system. The analysis conducted (see par. 3.4.2) shows that in some MS the dealers' registries are still paper-based thus creating inefficiencies and requiring additional work when information needs to be integrated in the central computerised system.

Finally, there are additional costs not directly related to the implementation of the Directive, namely proof marking tests. These costs are mainly due to different safety requirements in force across MS, and namely to the existence of MS adopting CIP standards and MS adopting national-specific safety standards. Economic operators located in non-CIP countries incur in costs to perform proof tests on firearms entering the CIP members markets.

Overall, stakeholders' perceptions on the overall burden (both direct and indirect) created by the Directive are positive and confirm how major burdens are due more to implementation differences than to the Directive's provisions.

Regarding representatives of MS competent authorities, in 8 cases (AT, EE, LT, LU, LV, RO, SE, SI) MS do not report any administrative burden related to the Directive. 10 MS (BE, CZ, ES, FR, HU, IE, IT, PL, SK, UK) consider the Directive's administrative burden as proportionate. Nonetheless Belgium and Malta report that differences at national level may increase information costs and this disproportionately raises administrative burden. Germany and Finland highlight how the Directive's burdens would in any case be replaced by a national legislative burden. Portugal, Cyprus, and the Netherlands do not provide any opinion while Malta is the only MS considering the Directive's administrative burden as not proportionate to the small size of the country. Generally, interviewees (e.g. BE, DE, ES, FI, FR, HU and LV) point out how controls and related costs are necessary, given the very specific nature of firearms and associated risks.

Generally, the administrative burden is more linked to national administrative and bureaucratic inefficiencies than to the Directive according to a number of industry representatives - both producers and national associations. Among the most controversial procedural aspects:

- Time to issue import and export licenses for transfers within the EU and nature of the procedure. Time needed by MS authorities to issue import and export licenses appears sometimes not in line with market needs and they lead to additional costs for industry (e.g., stock management).²³⁰ In Spain, the public administration may take up to a month and a half to issue import and export firearms licenses. In Greece, for instance, in order to be approved, import and export licenses have to be signed by three different ministries - Finance, Police and Foreign Affairs - and the procedure may

²³⁰ Two Spanish associations of producers and dealers.

take up to two months.²³¹ Furthermore, procedures for obtaining licenses are often paper-based and are likely to create delays and additional costs;²³²

- Security requirements introduced at national level for the production and selling of firearms²³³ represent for some producers and dealers a significant burden. Namely in Spain these requirements seem to be particularly burdensome²³⁴ (e.g. compulsory inspection of alarm systems every six months charged to dealers²³⁵, production sites of rifles must be under the surveillance of civil guards 24h/24 and stored in a bunker controlled by police forces²³⁶);
- Double marking of firearms imported from other EU MS even though they already have a mark of an EU country.²³⁷

Similarly to MS competent authorities, industry representatives also confirm the existence of an additional administrative burden due to differences in national legislation and procedures. This may slow down market movements since economic operators have to collect information on and comply with different requirements across MS. In this respect, for instance, a medium size Spanish producer states that the strong diversity of administrative processes creates a disproportionate administrative burden. Thus, improved administrative harmonisation across MS is welcomed by industry representatives to achieve a more efficient internal market for firearms.

In the implementation of the Directive's provision in relation to transfers across the EU, MS may apply different standards and ask for different documents hindering internal flows. As an example, while the trade of rifles and shotguns throughout Europe relies on prior consent, in Spain only shotguns are subject to prior consent while rifles, which are commonly used by hunters, require specific authorisation.²³⁸ Another example refers to shotguns used for hunting in England, and considered as Category C (subject to declaration). In this case Spanish authorities refuse to give prior consent as the same firearms are subject to authorisation in Spain.²³⁹ Finally, when trading firearms that need permission in Germany while they are freely available in the country of destination, the partner country has to provide permission to import, which is not always easy to get.²⁴⁰

The burden of administrative procedures implementing the Firearms Directive was in some cases quantified. As an example, an Italian gunsmiths association estimated that, if compared with an engineering company, the costs related to bureaucratic procedures in the firearms sector weight 15% more. Another example refers to a Finnish dealers' association, which reported that after the introduction of the Directive, among 5 employees working for the firm,

²³¹ A Greek producer.

²³² 3 producers and 4 industry associations.

²³³ Four producers and one Spanish association representative of producers and dealers.

²³⁴ This perspective from producers and dealers does not take into account other contextual elements that might be at the origin of these requirements.

²³⁵ Spanish association of gun dealers

²³⁶ Spanish producer.

²³⁷ According to a Swedish producer and to two industry associations.

²³⁸ According to an industry association in Spain.

²³⁹ According to a users' representative in Spain.

²⁴⁰ According to a dealers' representative.

4 were engaged in administrative procedures. A big firearms producer in Italy estimated also an additional cost of approximately 50,000 Euros per year, including a full-time equivalent, and the increased amount of time needed for the procurement of firearms. In addition a financial burden of 3-4,000 Euros is linked to stock management for 10-15 additional days.

Based on the analysis of costs and stakeholders' perception of the burden generated by the Directive, we concluded that the Directive's results have been achieved at reasonable costs. Costs linked to the implementation of the Directive's provisions are justified and acceptable, they are fairly distributed among interested stakeholders, often serve more than one objective and no infrastructure investments are required (except for the creation of a computerised data-filing system).

For the key costs, we have underlined either potential areas for improvement or the opportunities to achieve the Directive's expected results better. We have stressed the relationship between costs and results highlighting how some costs have arisen in relation to problems faced at the implementation stage. When illustrating the intervention logic, we focused on the highly interconnected nature of the Firearms Directive. Overall cost optimisation strongly depends on the level of effectiveness of all provisions.

4.5 The added value of the EU intervention

Evidence gathered throughout the study highlights how firearms represent a very complex sector, historically regulated at national level. Firstly, there is the dangerous nature of these items which require specific regulatory measures, and secondly the number of stakeholders and actors involved in the field. Last but not least, MS face specific needs – and threats – both in terms of security and in terms of their national markets. Different needs lead to different national legislation based on different priorities.

Most of the issues described in the study are partly related to differences in national legislation and clearly assume a cross-border nature. Vulnerabilities of a single MS to criminal activity (e.g., conversion of alarm weapons, illicit trafficking of firearms and their parts, etc.) affect the EU as a whole. As an example, cases of conversion of alarm weapons which occurred in Lithuania and in the Netherlands highlighted the transnational aspect of the problem, which can hardly be solved with interventions at MS level. Specifically in Lithuania, efforts to disrupt illicit trafficking of converted alarm weapons risk to be hampered by the availability of these items in neighbouring MS where they can be freely bought, while in the Netherlands, the issue took the form of cross-border crimes, facilitated by transnational networks acting across EU MS.

Differences in national legislation represent also an obstacle to controls and police cooperation across MS. As an example, different registration requirements for the same type of firearm or differences in the structure of the national computerised data-filing systems may limit law enforcement capacity to trace firearms across MS and to effectively fight illicit trafficking. These differences again affect the EU as whole. Based on this, effective action to reach the objectives of ensuring a high level of security for EU citizens and allowing the cross-border movement of firearms can only be taken at EU level.

The added value of the Firearms Directive is related to both its objectives (internal market and security) and its capacity to integrate with the existing regulatory framework through the introduction of common minimum standards. As for the former, the Directive was introduced as a single policy instrument to address the two priorities – the maintenance of high levels of security across Europe and enhancing the internal market - taking into account the related trade-offs. This has been possible thanks to the flexible nature of the legal instrument chosen. The Directive sets common minimum requirements while respecting the subsidiarity principle and leaving MS the possibility to adopt more stringent regulation according to their national needs and backgrounds. As regards security needs, considering a Europe without

borders, MS and EU citizens have been provided with the guarantee that the common security measures included in the Directive and concerning firearms produced and circulating across Europe are valid in all MS. The minimum threshold contributes also to the functioning of the internal market. Common requirements foster the creation of a level playing field, they reduce information costs and asymmetries for economic operators, and they facilitate market exchanges making them less time-consuming. An effective and efficient legal market for civilian firearms can prevent, to a certain extent, firearms black market and illicit trafficking.

A number of MS (EE, ES, LT, NL, PL) explicitly recognise the contribution of the Directive as a means to strengthen the licit firearms market. The adoption of common requirements represent a security guarantee for all MS, even though, as raised during the analysis of the case studies (BE, DE, FR), national legislation already included some of the provisions introduced by the Directive. In terms of market, the major expected contribution of EU intervention – the introduction of common categories and related regimes – appears to be significantly hampered by the differences in the Directive's implementation at national level and by inefficiencies of the administrative procedures. Industry representatives widely agree on the fact that the added value would be enhanced under improved harmonisation of interpretations and implementing procedures. In this regard, the effectiveness of the EFP is an example of the potential added value of EU intervention in terms of support to the cross-border movement of hunters and marksmen.

In the end, the added value of this Directive lies in the common regulatory framework for firearms regulation that would not have been achieved through national or bilateral interventions. Even though full harmonization of national legislations concerning firearms has not been realised, the added value of EU intervention in the firearms sector is undeniable.

Moreover, the Directive has enhanced transparency of national firearms control policies thus facilitating cross-border cooperation. EU added value would likely be improved as regards both security and market with further harmonisation. Nevertheless, since firearms relate to national competencies such as criminal law and security, this would require direct accountability and involvement of MS.

5 Conclusions and recommendations

Through the establishment of common minimum requirements for the acquisition, possession and transfer of firearms, the Firearms Directive has positively contributed to the functioning of the internal market limiting the "fears" that economic operators might have considering the abolition of internal borders, and minimizing the risks associated with the civilian firearms market. Common rules included in the Directive have laid down the basis of the internal market for civilian firearms and no barriers or blocks have been raised by any MS.

In a Europe without borders, and in view of future enlargement to countries with significantly different firearms culture and regulations, the identification of common minimum operating rules for this sector has been the starting point for the creation of a level playing field. Further, regulation at EU level has also contributed to the creation of an EU identity for all producers, dealers and brokers operating within the sector that currently share common requirements and standards.

While fostering the harmonisation among MS legislation/procedures concerning firearms, the use of a Directive inevitably left a number of significant differences resulting both from national

choices (as foreseen by Art. 3²⁴¹) about how to implement the various provisions and from pre-existing national approaches.

In many cases these differences are the source of the security or market concerns, described in details in the previous chapters and summarized in the Table below with the related provision(s).

Table 15 – List of identified problems, gaps and issues and related provisions

IDENTIFIED PROBLEMS, GAPS AND ISSUES	PROVISION
Information costs for economic operators and MS authorities originated by the differences in the implementation of the Directive's provisions among MS.	Categories Ownership
Burden resulting from the diversity of administrative procedures adopted to implement the Directive's requirements for each category.	Categories Ownership
Uncertainty for law enforcement activities, since the weapons defined as "alarm weapons" can be regulated in different manners across MS.	Categories
High number of Turkish alarm weapons entering the EU, which appear to be more easily convertible than the ones produced in the EU.	Categories
Legal uncertainty and lack of clarity for economic operators as to which rules apply to alarm weapons.	Categories
Burden/obstacles linked to the different national requirements applied to alarm weapons.	Categories
The public availability of information on how to convert semi-automatic weapons in automatic weapons may suggest that these firearms may be more dangerous than other category B firearms.	Categories
Converted alarm weapons have been used in several crimes and are a matter of concern for a number of EU MS.	Categories
Different classification of hunting and sporting firearms across MS creating obstacles to the movement of hunters and sport shooters.	Categories EFP
Restrictive interpretation of some rules related to the use of the EFP (i.e. number of firearms that can be registered on the Pass, request for only an invitation to a competition as a proof of hunting and sporting activities).	EFP
Lack of information on the structure of contents included in national data filing systems and the possibility to be interconnected.	Traceability
Errors occurred in the data entry in the national filing system and reported cases of erased marks.	Traceability Marking
Limited traceability of firearms across borders and law enforcement capacity: MS apply different registration requirements.	Marking
Risk of alteration and erasing of the marks.	Marking
Potential issues in terms of traceability of essential components: given the absence of a common definition of essential components, some parts can circulate with no marking and be used in another MS to build or reactivate a firearm.	Marking
Potential reactivation of deactivated firearms for criminal offences.	Deactivation
Circulation of deactivated firearms with different levels of security (depending on the security of the deactivation procedures applied or on the appropriateness of controls performed by competent authorities).	Deactivation
Trade in firearms parts that have not been permanently deactivated and can be used to build or reactivate a firearm.	Deactivation

²⁴¹ "Member States may adopt in their legislation provisions which are more stringent than those provided for in this Directive, subject to the rights conferred on residents of the Member States by Article 12(2)". (Art 3 of the Firearms Directive).

IDENTIFIED PROBLEMS, GAPS AND ISSUES	PROVISION
The progressive alignment of MS towards common and more detailed firearms' ownership requirements than the ones indicated in the Directive suggest a possible revision of criteria included in the Directive.	Ownership
Current differences in the interpretation of the term "broker" may suggest the risk that the activity of brokers is not properly regulated and may create serious vulnerabilities.	Dealers/Broker
Increased use of the internet as a sale channel for firearms and difficulties for law enforcement authorities' control.	Transversal
Lack of clarity on the advantages/threats linked to new technologies (e.g., 3D printing techniques) to manufacture or trace firearms.	Transversal

Based on the scale of the problem, the overall evidence collected and our assessment, some of these concerns require a revision of the Directive, whereas in other cases, a non-legislative intervention is more appropriate.

For all issues we have identified a few specific recommendations. As shown in the Table above, some of the identified concerns relate directly to the Directive's provisions and its scope, while others are transversal.

We start by presenting the recommendations identified to address the issues directly related to the Directive focusing firstly on non-legislative interventions and then on legislative ones.

1. Enhance transparency and accessibility of national rules implementing the Directive (*Non-legislative*)

Issues to be addressed

Differences in the implementation of the Directive categories are the source of slower intra EU exchanges; information costs – especially for SMEs²⁴²; burden resulting from the diversity of administrative procedures adopted to implement the Directive's requirements for each category; and remaining difficulties for law enforcement authorities to trace firearms in cross-country criminal offences.

The recommendation

Binding categories would certainly facilitate both the internal market and law enforcement procedures. In case of binding categories, all MS would use the same language and apply the same requirements as regards defined firearms categories. This would improve both the overall efficiency (by reducing information costs) and competition across Europe, while preventing the risk of cross-border lower category shopping.

Internal market movements would be optimised only in case of full harmonisation among MS, and the Directive's four categories seem the best solution considering trade-offs between market and security needs. Nonetheless, requiring all MS to adopt four categories would oblige 15 MS that are currently adopting just two categories to switch to less stringent legislation with respect to a topic as risky as firearms (as some firearms would pass under the declaration regime or would be subject to no specific regulatory regime). The same argument prevents the suggestion to adopt three binding categories, by way of merging categories C and D. Thus the

²⁴² As reported by one of the biggest companies in the EU civil firearms sector, information costs are mainly relevant for small and medium companies. While international companies may rely on the existence of branches in different MS to adequately understand national requirements and procedures, small and medium companies face bigger obstacles and need to find alternative channels of information (e.g., EU industry association, national competent authorities) and this may sometimes takes a long time to get an answer.

only way to fully harmonise firearms categorisation among MS would be to force them to group all firearms in two categories – prohibited and subject to authorisation.

Nonetheless, in this study we did not collect evidence of security concerns warranting such stricter categorisation and, according to answers collected through the survey, the current categorisation is satisfactory for the majority of stakeholders.²⁴³ This confirms the findings of the 2012 report on the firearms classification (COM(2012)415²⁴⁴) which found that most MS, user and producer representatives did not deem a reduction in the number of categories as beneficial for the internal market²⁴⁵.

To conclude, there is not enough evidence to recommend more clarity in the categories definition or to make them binding among MS. However, there is a case for further discussion among MS around some specific issues related to classification. While keeping categories as they are, their effectiveness may be improved and a number of issues related to categories and their implementation can be reduced – if not removed – by increasing information accessibility and transparency.

Currently information on national requirements and procedures as regards firearms possession, acquisition and transfer is not always accessible to interested stakeholders. In 14 MS (AT, BE, DK, EL, ES, FR, IT, LU, PL, PT, RO, SE, SI, SK) national rules and legislations implementing the Directive are available only in the local language and information is often spread across several stakeholders. For instance, the central level may not have comprehensive knowledge of procedures and requirements applied at local level and the local level may not have the most updated information on requirements applied by other MS on specific types of firearms. This generates obstacles to the internal market and costs for MS, economic operators and users.

We believe the widespread demand of stakeholders (MS representatives, economic operators – in particular SMEs - and users' representatives) for more information on the specific rules and regulations that MS have adopted to implement the Directive needs to be met. This can be achieved by improving the accessibility at EU level of information collected at national level for all interested parties.

Specifically, a database including the requirements for ownership, acquisition and transfers applied at national level for each category and type of firearms should be created (including also information on alarm weapons to be considered as firearms as better explained in the

²⁴³ 29 representatives of MS authorities (BE, BG, CY, CZ, DE, ES, FI, FR, HU, IE, IT, LT, LU, MT, NL, PL, PT, RO, SE, SI, SK, UK) out of 32 responding to the specific question, 18 industry representatives out of 27 responding to the to the specific question, 11 users' representatives out of 13 responding to the to the specific question and 2 experts out of 4 responding to the to the specific question.

²⁴⁴ Report from the Commission to the European Parliament and the Council, 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.

²⁴⁵ A different classification may increase MS and firearms industries' burden as more stringent rules would have to be applied, and it may also be interpreted by some MS as a limit to the discretion originally allowed by the Directive. Additional potential impacts of the change in the categories have been raised by an industry association, which stated that the re-opening of the Directive would be particularly difficult as the implementation of the Directive's amendment in 2008 was already very challenging. A change would also penalize the capacity of EU companies to be competitive. More related to security issues is the fact that reducing the classification to two categories could divert legal firearms to the illegal market. Legal holders of firearms previously subject only to a declaration/registration regime would have little incentive to ask for an authorisation for their firearms after a change in the number of categories.

following paragraphs). Such a list could be hosted on the DG Enterprise and Industry website and be accessible to MS representatives, producers, dealers/brokers and users. This recommendation would thus require initial investments from both MS and the Commission to set up the database, its content and technological features. For MS this initial investment is expected to be limited since they are already obliged to share information (art. 15.4) on their national implementing rules with the Commission. On the contrary, for the Commission the investment may be higher depending on the specific technological facilities available and their costs. Once the database is implemented, MS representatives would be required to communicate the Commission only relevant changes in their national rules and then the Commission should make the information accessible to the public.

Alternatively, and in view of simplifying the information management process, the Commission can design a common reporting template that will be filled by MS competent authorities with relevant information in English, published on their websites and made accessible to all interested stakeholders. The reconciliation table created by the German competent authorities (see par. 4.4) to match national firearms classification with the EU categories can be a valuable example in this respect. In this case, MS can easily maintain and update the information if required.

An increased level of transparency on applicable requirements would positively affect both specific objectives of the Directive. On one side it would reduce time and costs to MS and economic operators that need to inform themselves about how requirements and procedures are implemented in different MS as regards firearms possession, acquisition and transfer. Furthermore, there would be a positive impact on the efficient use of available administrative capacity both at national and European level. Easier and faster information flows simplify administrative procedures and allow for better coordination among MS national authorities. Reducing information gaps and asymmetries would enhance the functioning of the market and allow legitimate activities to be carried out more quickly across Europe. Enhanced information accessibility and transparency would also have a positive impact as regards security by improving the tracing capacity of law enforcement authorities.

Without strong evidence in support of a binding definition of categories, enhanced transparency would maintain the original spirit of the Directive while reducing the diseconomies originated by the limited harmonisation of national legislation. Once published, such a list may also indirectly foster mutual policy learning among MS and progressive national alignment on some issues.

2. Examine interoperability between the information systems created at national level (*Non-legislative*)

Issues to be addressed

Six years after the adoption of this requirement, the majority of MS has implemented the computerised data filing systems including all key information on firearms circulating in their countries. While improving the overall firearms traceability at national level, it is still unclear if and how these systems may be interconnected to adequately inform EU decision making processes. At this stage, there should be a systematic analysis of how these systems can reach their full potential, including their role in facilitating international cooperation. The Commission should assess the structure and the content of the existing national systems and start thinking about how to create an EU wide information database able to adequately inform future EU actions.

The recommendation

We recommend examining interoperability between the information systems created at national level. Better understanding of the structure of the national systems could indeed

facilitate efficient information exchange. Requests for information might be prepared in formats that make data recovery quicker and easier. As a first step, a meeting of technical experts with knowledge of the structure of databases that have been created could seek synergies and develop procedures for rapid information exchange.

In the meanwhile, tracing improvements might also derive from the use of new technologies as illustrated by the ongoing international debates on the subject. At the moment, no national marking procedure includes new technologies, such as forensic markers or digital locks. Nonetheless, at the Fifth Biennial Meeting of States²⁴⁶, it has been discussed how recent technological advances may strengthen stockpile management. Barcodes, radio frequency identification and biometrics (e.g., finger print recognition) allow law enforcement to automatically identify objects, collect and enable data to be entered automatically into record-keeping systems. The use of new technologies should be further evaluated, taking into account that, even when all computerised systems will be in place, errors in the data entry and risks of erased marks could persist.

3. Define an agreed approach to the classification of hunting and sporting firearms and clarify the rules of the EFP (*Non-legislative*)

Issues to be addressed

A number of concerns have been reported by hunters and sport shooters in relation to the cross-border movement of sporting and hunting firearms. Concerns relate, on the one side, to the different classification of firearms commonly used for these activities across MS (i.e. firearms commonly used for sport shooting may be forbidden in some MS²⁴⁷), on the other side to restrictive interpretations of some rules to apply for an EFP. Regarding the latter, the EFP is sometimes considered insufficient to enter a MS. Moreover, the number of firearms that can be registered on the Pass may be limited in some MS.

The recommendation

We suggest developing a common approach on the classification of hunting and sporting weapons to reduce the risk of unjustified restrictions on legitimate activities. This can be achieved starting from the analysis of the national classification of the main hunting and sporting firearms, and with a round of consultation with national hunting associations, hunting and sporting firearms producers and MS competent authorities to identify possible areas for improvement and achieve a common understanding.

This can also be an opportunity for the EC to clarify some rules to be applied to the EFP where very restrictive national interpretations still persist. We recommend that the EC clarify that no additional documents (additional to the EFP and a proof of invitation) should be requested when entering an EU MS for hunting or sporting activities, that no limit is established to the

²⁴⁶ These topics have been discussed at the Fifth Biennial Meeting of States on Illicit Trade in Small Arms The meeting took place on June 16th-20th 2014. At the time of elaboration of the present report, official results are not available. However, the use of new technologies for tracing and controls is the object of a report of the Secretary General, published as preparatory document of the conference: "Recent developments in small arms and light weapons manufacturing, technology and design and implications for the implementation of the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons" – May 2014.

²⁴⁷ Parabellum 9 mm in Italy.

number of firearms that can be registered in the EFP, and that valid proofs of hunting or target shooting activities should not be limited to an invitation to a competition.

4. Conduct in-depth analysis on key issues (*Non legislative*)

Issues to be addressed

Evidence collected along the study has raised a number of issues related to the Directive:

Firstly, there is the appropriateness of the firearms ownership requirements foreseen in the Directive. In this respect, it is interesting to notice the progressive alignment of MS towards common and more detailed requirements than the ones indicated in the Directive. This may suggest the opportunity to tighten the Directive requirements according to national criteria. However, thus far, data available on crimes committed with legally owned firearms and firearms thefts do not provide sufficient evidence to challenge existing ownership requirements. Detailed information on these cases is needed to establish which specific types of legal ownership create risk. The extension of new restrictions to all legal owners will be strongly resisted as an unjustified constraint. The specific aspects of legal ownership that create risk (now or in the future) need to be pinpointed. In other words, in-depth research on each reported case with a focus on the perpetrator and his/her reasons would be necessary to understand the extent to which the committed crimes/thefts would have been avoided by the introduction of new requirements.

Still with respect to the opportunity of a stricter EU intervention concerning firearms ownership, some stakeholders (e.g. BE, FI) highlight the potential side effects of stricter regulation. Stricter rules on access to legal firearms may increase firearms prices. The extra costs would probably be paid by firearms users, either in terms of higher prices or in the form of increased administrative costs. A more harmonised approach at EU level could reduce certain administrative and trade costs associated with duplication in verification of functions or classifications, for instance. The option to change EU requirements for firearms ownership should require adequately evaluating the above mentioned trade-off and start from a comprehensive information base.²⁴⁸ This would allow assessing the existence and the nature of the links between civilian firearms ownership and crime.

Another issue to be further analysed is the adequacy of the definition of brokers across MS and the impacts in terms of market and security that arise from the current different interpretations.

If the activity of brokers is not properly regulated, it may create a serious potential risk because an unscrupulous broker could be the connecting point between criminals and arms suppliers. The differences in approach towards definition and regulation across EU MS suggest that there is no currently established best practice in this area. Further analysis is needed to assess the potential high risks related to inconsistencies of national approaches to dealers/brokers. Specifically, the collection and analysis of evidence of criminals exploiting legal procedures for illicit activities may help to understand to what extent existing rules for brokers are effective and to identify possible areas for improvement.

Finally, rules applied to semi-automatic weapons in different MS in view of the security concerns posed by this type of firearms when converted into automatic weapons (see par.

²⁴⁸ Among the information that should be collected there are: the number of legal firearms owners in MS (data that should be easily available once the computerised data-filing systems would be fully operational in all MS) and the numbers and trends in crimes committed with legal firearms.

2.2.1) should be further assessed together with the related risks to evaluate the opportunity to include specific restrictions in the Directive.

Taking into account the available knowledge to convert semi-automatic firearms into automatic firearms, the EC may evaluate the opportunity to revise the rules applied to this specific type of weapons and to design more stringent rules to their ownership, acquisition and transfer.

The recommendation

We recommend that the EC conduct an in-depth analysis on the above mentioned issues to better understand the scale of the related market and security concerns and decide accordingly whether to modify the Directive or not.

Before launching the study, dedicated meetings with groups composed of MS competent authorities and firearms experts may help the EC to better focus the problem. For instance, as for the semi-automatic firearms, such a group can document the existing different types of semi-automatic firearms, techniques currently used to convert them across EU and propose possible solutions to address the issue (e.g., more stringent rules, design of anti-convertibility standards, etc.). A discussion on the regulation of semi-automatic firearms would also have a positive impact on the security of EU citizens promoting an information exchange across EU MS that may support law enforcement to prevent the conversion into automatic weapon.

Security and market issues presented until now do not warrant the modification of the Directive's categories, however documented cases of converted alarm weapons and re-activated firearms challenge the definition of alarm weapons and deactivated firearms currently outside the scope of the Directive and call for a revision. In what follows, we present recommendations entailing a legislative intervention.

5. Define common criteria on convertibility of alarm weapons (*Legislative*)

Issues to be addressed

The conversion of originally blank firing weapons (alarm and signal weapons) to fire live ammunition recently emerged as a serious issue in a high number of MS. Many documented cases of conversion into real weapons exist, and organized criminal groups committed to convert and illicitly trade converted alarm weapons across the EU have been detected.

The lack of clarification around what constitutes "convertible" with regard to objects other than firearms created scope for national interpretation. This has resulted in differences in national definitions and approaches. The security risks linked to the lack of a common definition of "convertible" alarm weapons are further strengthened by the high number of Turkish alarm weapons entering the EU, which appear to be more easily convertible than the ones produced in the EU.

This situation creates "weak points" in the system, which criminals may take advantage of, it represents a significant complicating factor for the law enforcement, and it creates several imbalances in the functioning of the internal market (i.e. uncertainty of economic operators on rules to be applied to alarm weapons and burden related to the compliance to different requirements).

The recommendation

We recommend a legislative intervention clarifying the definition of convertibility and the criteria that apply to 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 are proved to be convertible.

This would include technical guidelines that would detail:

- the criteria that qualify alarm weapons as convertible and thus, their inclusion in the scope of the Firearms Directive; and
- the technical methodologies for verifying that these criteria are met.

Criteria could include elements such as: construction materials, the possibility for removing essential components, the size of the essential components, colours/components distinguishing the alarm weapons from live firearms. The guidelines should be defined with the involvement, from the beginning of the process, of national experts from each MS, selected among police/forensic authorities, experts on firearms and representatives of the producers. Respect of the criteria should be verified by national authorities and/or other bodies (such as the Proof Houses), which are in charge of testing and apposition of proof-marks before placement on the market. Alarm/signal weapons that prove not to be in line with the anti-conversion criteria will be subject to the provisions of the Firearms Directive and related requirements (depending on the classification defined, according to the categories set out in the Annex I).

Consistently with the initial recommendation to increase transparency and accessibility to national regulations on firearms, each MS should be asked to communicate the list of weapons that, based on the common technical guidelines, have been classified as “convertible” and therefore in the scope of the Firearms Directive. Those weapons should be, therefore, treated as “convertible” also in all other MS (this would avoid that MS do not consider certain alarm/signal weapons as firearms even though law enforcement in other EU MS has proven that those weapons are convertible).

A medium impact is expected, due to the fact that while common convertibility criteria will address security issues related to cases of conversion of alarm weapons, they may bring additional burden to alarm weapons producers. This latter in the event that a large number of models of alarms/signal weapons, which are currently outside the scope of the Firearms Directive, are classified as firearms subject to license or authorization. No major obstacles in the implementation of this recommendation are expected. Consensus on this type of intervention has been expressed by both MS representatives and producers.²⁴⁹

6. Harmonise standards and rules on deactivation (*Legislative*)

Issues to be addressed

The lack of common guidelines on deactivation standards and techniques (as foreseen by the Annex I.III of the Firearms Directive) has created room for the adoption of different rules and procedures at national level. Furthermore, this issue is at the origin of the circulation of deactivated firearms with different level of security that could be potentially reactivated. Adopted regulations at national level appear not to be sufficient to guarantee EU citizens' security and cases of re-activation of deactivated firearms encountered by police forces throughout the EU, and the use or trade of firearms parts that have not been permanently deactivated pose significant security issues. Furthermore the different types of national competent authorities/entities responsible for ensuring that the modifications made to a firearm render it irreversibly inoperable may be at the origin of potential gaps in the procedures for adequate controls.

²⁴⁹ Producers and other economic operators would be affected only in the event that a large number of models of alarms/signal weapons, which are currently outside the scope of the Firearms Directive, are classified as firearms subject to license or authorization. However, it should be noted that the major European producers, such as Germany and Italy, already adopt specific anti-conversion standards; importers and traders (dealing with firearms imported from outside the EU), rather than producers, are likely to be affected.

Recommendation

We recommend a legislative intervention to define common standards and rules for deactivation. This recommendation is strictly linked to the common technical standards (foreseen in the Firearms Directive) which are under discussion at EC level in cooperation with MS representatives and firearms experts, and with aims to supplement these guidelines with additional elements.

Besides technical standards for deactivation, an additional important aspect to take into account relates to the requirements for ownership, selling or transfer. In most MS, deactivated firearms are not considered firearms anymore. Thus they are erased from the official register making it impossible to trace them back to their original owner. Nonetheless, these items can be considered as a security concern (depending on the different deactivation standards applied), and used for intimidation. Our analysis supports the need for a legislative intervention in this regard as guidelines would probably not provide a lasting solution to the current differences. Also the national competent authorities/entities responsible for ensuring that the modifications made to a firearm render it irreversibly inoperable should be identified, in order to address potential gaps in the procedures for adequate control.

7. Harmonise rules on marking (*Legislative*)

Issues to be addressed

The failure of some MS to treat essential components as firearms, the exemption of essential components in the marking obligations of the Directive together with the broader definition of essential components included in the UNFP (i.e. parts and components) generated differences in marking standards adopted at national level. Inconsistencies relate to the components to be considered essential and to the number of components to be marked.

Differences in national marking rules and registration requirements created difficulties for law enforcement authorities when tracing firearms in cross-border criminal offences that we believe are at the origin of illegal trade in unmarked firearms parts and cases of erased or altered marks. Moreover, the fragmentation of marking procedures can also imply potential obstacles to the functioning of the Internal Market as marks can be not recognised in all MS.

Recommendation

The most straightforward approach is to transpose the UNFP's definition of parts and components as essential components, as this would cover the definition provided in the EU Directive, and then follow the Directive's definition of essential components. This approach guarantees that MS implement the minimum requirements in both the EU Directive and the UNFP.

Nonetheless, the alignment of the EU Firearms Directive to the UNFP would not completely remove differences among MS. If the Directive broadens its definition of essential components to match that of the UNFP, different national interpretations of which parts to mark would still persist. To address this issue, an option might be to go towards the definition of common rules for marking, clarifying any potential conflicts among national and international legislation and defining the essential components to be marked. This option fits in the ongoing discussion at EU level on the establishment of an EU standard on marking as one of the tasks to be accomplished in view of safeguarding the licit market for civilian firearms foreseen in the 2015 firearms package described in COM(2013)716. In parallel the Commission needs to remind MS that the inclusion of essential components in the definition of firearms is a minimum requirement.

Operationally, we recommend including in the Directive an obligation to mark all essential components at the time of manufacturing or import. A preliminary in-depth analysis of the firearms parts regulated and marked across MS should be performed and differences between

the definition of “essential components” included in the Firearms Directive and “parts and components” regulated by the UNFP should be addressed at EU level to evaluate the need for changes of the definitions in the Directive. The analysis of the current marking regulations at national level should be conducted with the support of Proof Houses/MS authorities responsible for marking, and representatives of producers to build a proportionate and comprehensive approach. This recommendation would positively contribute to both the traceability of firearms and their cross-border movement avoiding the current practice of some MS not recognising firearms imported from other MS even if already marked.²⁵⁰

Moderate legal issues can be encountered in the implementation of this recommendation as it requires MS authorities and economic operators to modify the current procedures by widening their scope and by making sure that all essential components are marked.

We conclude presenting recommendations that address transversal concerns which emerged over the course of the study and for which we do not foresee a legislative intervention.

8. Strengthen the knowledge on new technologies (*Non-legislative*)

Issues to be addressed

As noted throughout the analysis, there are errors in the entry of data in national systems regarding firearms circulating in the Member States. This together with recent developments in weapons supply (i.e. internet channel) and manufacturing, technology and design changes in the materials of firearms (including the increase of plastic materials for manufacturing of weapons or possible advancements in 3D printing techniques) challenge law enforcement authorities capacities to trace firearms or their components across MS.

New technologies have also a range of implications for effective marking, record-keeping, or deactivation procedures, which should be further investigated and taken into consideration. At the same time, new technologies can also present an opportunity for improvement of control and tracing capabilities of law enforcement. As these technologies are still at an early stage of development, no deep understanding of the related threats and advantages is currently available.

Recommendation

We recommend to boost knowledge sharing among MS on 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 on control and tracing of weapons. These activities would take place in a structured form, e.g. through the organisation and institutionalisation of meetings among MS authorities, EU Institutions and Agencies (such as Europol) and relevant third parties (relevant UN offices, experts from research institutes such as the Small Arms Survey), to build a coherent and comprehensive approach.

9. Strengthen data collection (*Non-legislative*)

Issues to be addressed

The issues mentioned in recommendation n.4 as well as the analysis conducted over the course of this study raise the issue of data availability (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.). Poor quality of available data has been detected in relation to:

²⁵⁰ As an example, the EC received some complains on the procedures followed by some MS marking firearms imported from other MS, disregarding the European legislation.

- The civilian firearms market structure (i.e., production, import and export of civilian firearms, employees and turnover of companies operating in the sector);
- Criminal offences related to civilian firearms:
- Figures on the market and criminal offences related to alarm weapons and deactivated firearms circulating in EU.

Recommendation

We recommend strengthening data collection activities to create a sound information base to support future decision-making processes at EU level. Any decision on more stringent requirements at EU level, such as the amendment of categories to make certain types of firearms subject to authorisation rather than declaration, should not be applied in a one-size-fits all manner. The current lack of detailed and comprehensive data on civilian firearms and related criminal offences is one of the major obstacles preventing policy makers from designing evidence-based policies.

This recommendation should be framed in the context of the actions already undertaken by the Commission to improve knowledge, cooperation and exchange of information among MS²⁵¹, including the specific issues that relate to civilian firearms security threats and market, by enhancing the collection of:

- Disaggregated data on production, import and export of civilian firearms (with a focus on alarm and signal weapons), through the involvement of producers and, when relevant, the national Proof Houses;
- Detailed statistics at national level on deactivated firearms, alarm and signal weapons, replicas circulating in the MS and the number of firearms owners (partly feasible once all MS have established the computerised data-filing system required by the Commission);
- Detailed data on criminal offences committed with civilian firearms, converted alarm or signal weapons, replicas and reactivated firearms (including information on both the firearm and the perpetrator).

Specific guidelines for data collection can be developed at EU level with the support of representatives of the national statistical offices for the market aspect, of the police for information related to criminal offences and with representatives of MS departments responsible for managing the computerised data-filing system foreseen by the Directive. EU intervention at this regard would be necessary to guarantee the collection of comparable data across countries.

Together with specific data on the market and security context, any future revision of the Firearms Directive should be based on an accurate quantification of burdens and costs derived from the implementation of the Directive at national level and from the current differences in terms of laws and procedures regulating firearms.

The Table below presents an overview of the recommendations raised over the course of the study. They are presented in relation to the problems and gaps they are meant to address with responsible stakeholders and the associated level of priority (L= Low, M= Medium, H= High). This latter has been defined according to 3 criteria: i) the impact on the two specific objectives

²⁵¹ See the Commission Communication COM(2013) 716 final, Priority 4 "Building a better intelligence picture".

of the Directive - cross-border movement of firearms and maintenance of a high level of security for EU citizens; ii) feasibility taking into account political acceptability, difficulties/risks for implementation and changes/implementation costs; iii) the intensity of the problem according to stakeholders as expressed during interviews and through the survey.

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Table 16 - Overview of the recommendations

RECOMMENDATION	IDENTIFIED PROBLEMS, GAPS AND ISSUES	RESPONSIBLE STAKEHOLDERS	PRIORITY	Impact on specific objectives	Feasibility	Relevance for stakeholders ²⁵²
1. Enhance transparency and accessibility of national rules implementing the Directive (<i>Non legislative</i>)	<ul style="list-style-type: none"> Information costs for economic operators and MS authorities originated by the differences in the implementation of the Directive's provisions among MS; Burden resulting from the diversity of administrative procedures adopted to implement the Directive's requirements for each category. 	EC and representatives of MS competent authorities implementing the relevant laws.	H	H	H	H (MS, I, U)
2. Examine interoperability between the information systems created at national level (<i>Non legislative</i>)	Lack of information on the structure of contents included in national data filing systems and the possibility to be interconnected.	EC and national experts from each MS selected among: <ul style="list-style-type: none"> Police/forensic authorities; Experts on firearms; 	H	H	H	L (MS)
3. Define an agreed approach to the classification of hunting and sporting firearms and clarify the rules of the EFP (<i>Non legislative</i>)	<ul style="list-style-type: none"> Different classification of hunting and sporting firearms across MS creating obstacles to the movement of hunters and sport shooters; Restrictive interpretation of some rules related to the use of the EFP (i.e. number of firearms that can be registered on the Pass, request for only an invitation to a competition as a proof of 	EC, MS competent authorities, hunting and sporting associations, hunting and sporting producers	M	M	M	L (U)

²⁵² Please consider that "MS" stands for National competent authorities, "I" stand for Industry representatives – including SMEs, and "U" stands for Users' representatives.

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RECOMMENDATION	IDENTIFIED PROBLEMS, GAPS AND ISSUES	RESPONSIBLE STAKEHOLDERS	PRIORITY	Impact on specific objectives	Feasibility	Relevance for stakeholders ²⁵²
	hunting and sporting activities)					
4. Conduct in-depth analysis on key issues (<i>Non legislative</i>)	<ul style="list-style-type: none"> The progressive alignment of MS towards common and more detailed firearms' ownership requirements than the ones indicated in the Directive suggest a possible revision of criteria included in the Directive; Current differences in the interpretation of the term "broker" may suggest the risk that the activity of brokers is not properly regulated and may create serious vulnerabilities; The public availability of information on how to convert semi-automatic weapons in automatic weapons may suggest that these firearms may be more dangerous than other category B firearms. 	EC	M	H	L	L (MS)
5. Define common criteria on convertibility of alarm weapons (<i>Legislative</i>)	<ul style="list-style-type: none"> Converted alarm weapons have been used in several crimes and are a matter of concern for a number of EU MS; Uncertainty for law enforcement activities, since the weapons defined as "alarm weapons" can be regulated in different manners across MS; High number of Turkish alarm weapons entering the EU, which appear to be more easily convertible than the ones produced in the EU. Legal uncertainty and lack of clarity for economic operators as to which rules apply to alarm weapons; Burden/obstacles linked to the different national requirements 	EC and national experts from each MS selected among: <ul style="list-style-type: none"> Police/forensic authorities; Experts on firearms; Representatives of producers. 	M	M	M	M (MS, I)
6. Harmonise rules on marking	<ul style="list-style-type: none"> Limited traceability of firearms across borders and law enforcement capacity: MS apply different marking and 	EC, Proof Houses/MS	M	M	M	M (MS,

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RECOMMENDATION	IDENTIFIED PROBLEMS, GAPS AND ISSUES	RESPONSIBLE STAKEHOLDERS	PRIORITY	Impact on specific objectives	Feasibility	Relevance for stakeholders ²⁵²
<i>(Legislative)</i>	registration requirements; <ul style="list-style-type: none"> • Risk of alteration and erasing of the marks • Potential issues in terms of traceability of essential components: given the absence of a common definition of essential components, some parts can circulate with no marking and be used in another MS to build or reactivate a firearm. 	authorities responsible for marking in different MS, representatives of producers.				<i>I)</i>
7. Harmonise standards and rules on deactivation <i>(Legislative)</i>	<ul style="list-style-type: none"> • Potential reactivation of deactivated firearms for criminal offences; • Circulation of deactivated firearms with different levels of security (depending on the security of the deactivation procedures applied or on the appropriateness of controls performed by competent authorities); • Trade in firearms parts that have not been permanently deactivated and can be used to build or reactivate a firearm; 	EC, MS representatives and firearms experts	M	L	M	M (MS, U)
8. Strengthen the knowledge on new technologies <i>(Non legislative)</i>	<ul style="list-style-type: none"> • Errors occurred in the data entry in the national filing system and reported cases of erased marks; • Increased use of the internet as a sale channel and difficulties for law enforcement authorities' control; • Lack of clarity on the advantages/threats linked to new technologies (e.g., 3D printing techniques) to manufacture or trace firearms. 	EC, MS authorities, EU Institutions and Agencies (e.g., Europol) and relevant third parties (e.g., UN offices, experts from research institutes)	M	M	H	M (MS, I)
9. Strengthen data collection <i>(Non legislative)</i>	Poor quality of available data in relation to: <ul style="list-style-type: none"> • The civil firearms market structure (i.e., production, import and 	EC, national statistical offices, Police departments	M	H	H	L (MS, I)

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RECOMMENDATION	IDENTIFIED PROBLEMS, GAPS AND ISSUES	RESPONSIBLE STAKEHOLDERS	PRIORITY	Impact on specific objectives	Feasibility	Relevance for stakeholders ²⁵²
	<p>export of civilian firearms, employees and turnover of companies operating in the sector);</p> <ul style="list-style-type: none"> • Criminal offences related to civilian firearms: • Figures on the market and criminal offences related to alarm weapons and deactivated firearms circulating in EU. 	<p>responsible for the archiving of information on criminal offences, MS departments responsible for managing the computerised data filing system</p>				