



## EUROPEAN CRIME PREVENTION NETWORK

# EUCPN Toolbox Series

No. 9



### ***Preventing Illegal trafficking of firearms – policies & practices***

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# Preventing Illegal Trafficking of Firearms – Policies & practices

## Preface

The ninth toolbox in the series published by the EUCPN Secretariat focuses on the topic chosen by the Dutch Presidency, namely Illegal Trafficking in Firearms. As one of the EU priorities, it can be said that this topic has a great importance for the EU Member States. In this toolbox we hope to contribute to the EU and national policies by focusing on the preventive side.

The first part of the toolbox presents some general information on this subject. The second part focuses on the existing policies and legislative measures on the international level, with a particular focus on the EU. Furthermore, the differences between Member States in relation to policies and legislative measures will be discussed.

Finally, we discovered that there has not been done a lot of best practices in this theme. Therefore, it was not possible to give an overview of best practices in this toolbox. That is why we decided to give an overview of lessons learned and what things must be realized before Member States can think of creating best practices.

## Legal notice

The contents of this publication do not necessarily reflect the official opinion of any EU Member State or any agency or institution of the European Union or European Communities.

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Furthermore, we would like to thank all EUCPN National Representatives, Substitutes and Academic Contact Points for their continuous support of our work. We would especially like to thank the National Representatives and Substitutes of the 12 Member States who sent us answers to the questionnaire about Illegal Trafficking of Firearms. These answers form one of the inputs into this toolbox.

Finally, we are very grateful towards all the participants of the workshops we organized in relation to this toolbox: Georgios Raskos (Europol), Ian Head (NABIS), Cyrille Fijnaut (Professor Tilburg), Maarten van Alstein (Flemish Peace Institute). Despite the fact they were not able to participate in the workshop, we want to thank especially Jorno Jon-Ming (Police Amsterdam), Monique Bruinsma and Nils Duquet (Flemish Peace Institute) for their input.

The EUCPN Secretariat

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## Introduction

We believe that illicit trafficking of firearms has not deserved the attention that it should. Even though it is obvious that the illicit trafficking of firearms is a threat to the security of Europe, not much has yet been done to prevent it. By writing this toolbox we would like to mitigate this by recommending certain actions to get started with the prevention.

Overall, the research confirms that Europe faces a serious illicit firearms trafficking problem. This is a problem in its own right but also as an important factor contributing to other criminal activities, such as human trafficking<sup>1</sup>, drugs smuggling and terrorist-related activities all of which threaten the security of EU Member States and their citizens. Additionally, trafficking in firearms make firearms more available, which then, contributes to the increased lethality of criminal violence.

## Toolbox elements

As usual, the theme of the EUCPN toolbox is explored from various perspectives, bundling as much information and knowledge as possible in an easy-to-read document for policy-makers and practitioners<sup>2</sup>. This ninth toolbox in the series consists of three parts:

**General part** – within this first part of this toolbox, you can find a general introduction to the theme of ‘illegal trafficking of firearms’. It builds on existing research and input from experts through a workshop that has been organised by the EUCPN Secretariat.

**Policy and legislation** – This second part provides information on how legislation and policy measures are developed in the international level, in particular in the EU. This information builds on existing research, input from the Member States through a questionnaire and input from experts through a workshop that has been organised by the EUCPN Secretariat. Furthermore, we examine what the EU Member States do with these international conventions. The implementations of these international agreements and Directives are very important in order to really prevent Illegal Trafficking of Firearms.

**Recommendations** – Because we discovered that not a lot of best practices on this subject have been put in place, we were – of course – not able to give an overview of best practices like we usually do in toolboxes. Therefore, the decision was made to give an overview of lessons learned and what conditions need to be completed first before Member States can think of creating prevention projects and best practices.

<sup>1</sup> The EUCPN wrote in 2015 a toolbox on ‘Trafficking in human beings within the EU – Policies & practices.

<sup>2</sup> For the other EUCPN toolboxes, see: [http://eucpn.org/search/knowledge-center?f\[0\]=im\\_field\\_doc\\_subject%3A8&f\[1\]=im\\_field\\_doc\\_subject%3A15&f\[2\]=im\\_field\\_doc\\_subject%3A116](http://eucpn.org/search/knowledge-center?f[0]=im_field_doc_subject%3A8&f[1]=im_field_doc_subject%3A15&f[2]=im_field_doc_subject%3A116)

## **Part 1** Illegal Trafficking of Firearms – General information

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### **Illegal Trafficking of Firearms - General information**



## Introduction

The aim of this first part is to give some general information about the topic. The attention paid to this problem has increased significantly over the past few years. In the first paragraph we will examine the concept of this phenomenon. Although it is difficult to develop a definition of firearms trafficking that includes all possible circumstances, firearms trafficking is broadly defined as the illegal diversion of any quantity of firearms from the legal market or any illegal commerce in firearms<sup>3</sup>.

The second paragraph will focus on the negative impact of this phenomenon. Furthermore, in a third part, we will take a quick view on the actors in the illicit gun market. Moreover, some information will be given about the origins of the weapons. Finally, we will explain why the illegal trafficking of firearms is a 'glocal' problem.

## 'Illegal trafficking of firearms': short overview of the phenomenon

The illegal production, illegal trade and illegal possession of firearms are not new phenomena and problems. However, the number of armed conflicts that have broken out across the world, the industrial production of firearms and the opportunities to transport, manufacture, distribute and possess firearms have increased dramatically.<sup>4</sup> With the end of the Cold War and the collapse of the former Soviet Union, it became more difficult to contain regional and local armed conflicts across the world, while it became easier to trade illegal arms, originated from enormous military arms depots in Central and Eastern Europe and Central and South-East Asia, to conflict zones worldwide. Because of these developments, a number of big problems emerged, including the unbridled growth of political conflicts across the world and the arming of fighting parties with firearms from those above mentioned military arms depots.

Small arms and light weapons (SALW) are being called the weapons of mass destruction of this era. In the big cities of Europe this is a problem of a different order than in areas of conflict (for example the Middle-East), however it still is problematic: in the hands of the wrong person, firearms can have devastating consequences for citizens and communities. **Worldwide**, yearly around 500.000 people die as a result of the use of illicit firearms, whereof 300.000 people die in armed conflicts.<sup>5</sup>

<sup>3</sup> Bureau of Justice Assistance, 'Reducing illegal firearms trafficking. Promising practices and lessons learned', Washington, U.S. Department of Justice - Office of Justice Programs, 2000. Retrieved from: <https://www.ncjrs.gov/pdffiles1/bja/180752.pdf>

<sup>4</sup> W. Bruggeman, C. Fijnaut, L. Sievers, T. Spanes, W. Van Erve, 'Pearls in policing – Working Group on small arms and light Weapons. The World's police and the containment of the illegal production, the Illegal Trade and the Illegal Possession of SALW' The Hague, Netherlands, 15-18 June 2008.

<sup>5</sup> C. Fijnaut, 'De bestrijding van de illegale vuurwapenhandel; het beleid van de Verenigde Naties en de Europese Unie,' in 'Justitiële verkenningen', jaargang 34, nr. 4, 2008. Retrieved from: <https://www.wodc.nl/onderzoeksdatabase/jv200804-illegale-wapenhandel.aspx>

In the European Union too, there are too many victims of gun-related violence: It is estimated that, in the first decade of the 21<sup>st</sup> century, over 10.000 victims of murder or manslaughter were killed by firearms in the EU Member States.<sup>6</sup> Additionally, every year there are over 4.000 suicides by firearms. On average, there are 0,24 homicides and 0,9 suicides by firearms per 100.000 population per year in the EU.<sup>7</sup>

For the most European countries, there is relatively good statistical information on violent deaths available, although data are often partial and time series incomplete. The best source of international mortality data is provided by the World Health Organization. This is the reason that ***the total rate of gun-related deaths*** (including accidents, some of which may be misclassified suicides) ***estimated from the World Health Organisation data*** is higher, ***at about 6,700 deaths per annum in the European Union.***<sup>8</sup> Between 2000 – 2012, more than 81.000 people died from lethal firearms wounds in the 33 European countries. Taken into account the significant number of missing year-values, there can be estimated that the total figure of firearms-related deaths in Europe is around 94.000. ***For the 27 EU MS for which data is available (for Greece there were no data available), this corresponds to almost 87.000 deaths.***

The most gun deaths in Europe are the result of successful suicide attempts: 5000 persons (75%) commit suicide every year using a firearm. Only in Macedonia, Moldova and the Netherlands, a higher number of gun homicides than suicides could be observed. Homicides make up 15% (1000 persons every year – 12.016 in the period 2000-2012) of all the firearms-related deaths in Europe. The other firearms-related deaths were the results of accidents or cases in which the cause of death could not easily be determined.

However, it is important to take into account any margin of error. Firstly, deaths that are initially recorded as a homicide could have been subsequently determined to be accidental or vice versa. Furthermore, it is possible that medical personnel responsible for generating data misreport the context of death, such as registering cases of suicided as accidents. Additionally, police and WHO data on homicides can be systematically mismatched: in Western Europe for example, WHO data on homicide are lower than those reported by the police, while in Eastern Europe police data are lower than those provided by health agencies to the WHO.

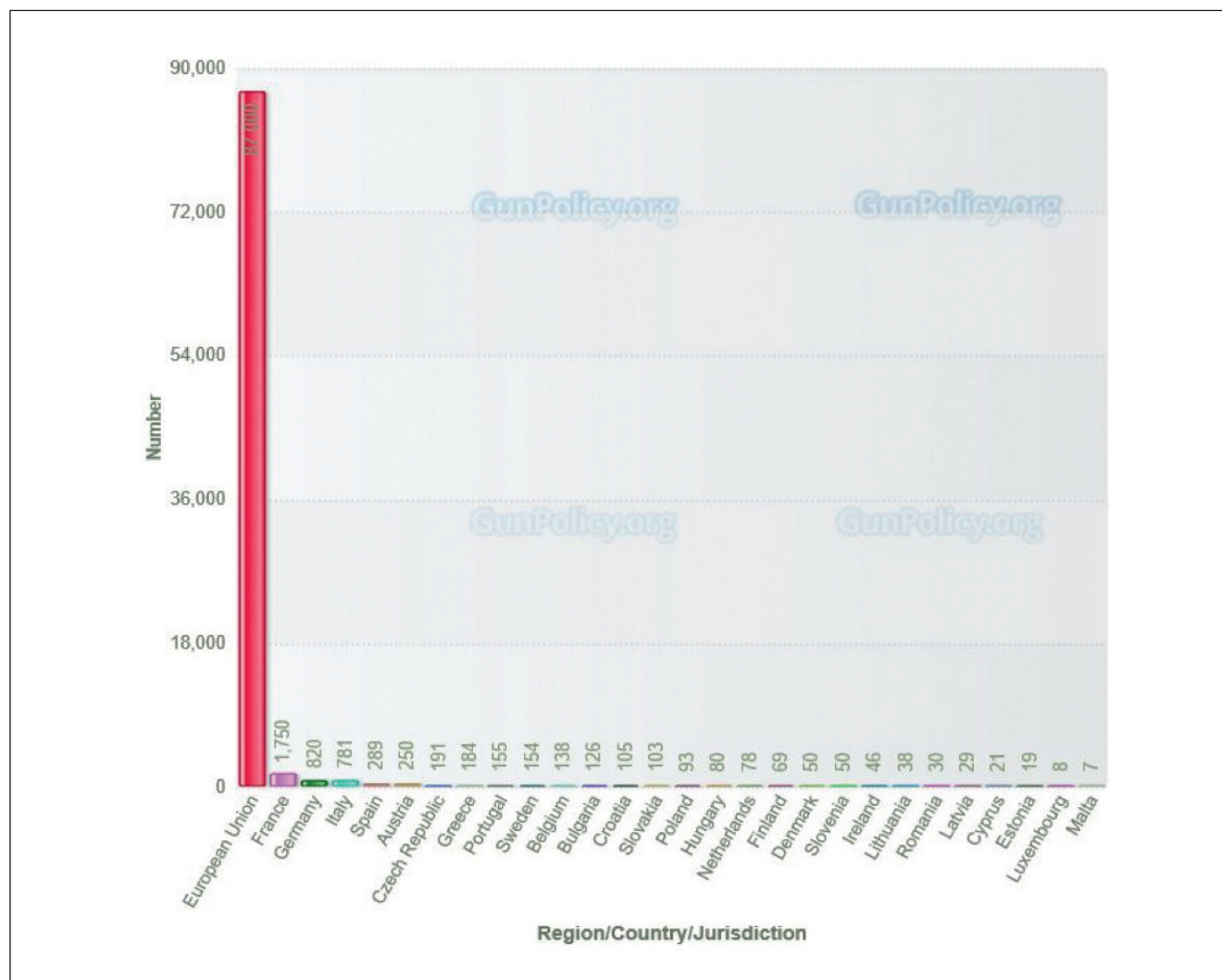
<sup>6</sup> Period 2000-2009. Source: UNODC Global Study on Homicide 2011. This is a partial figure as for most Member States statistics for the whole period are unavailable.

<sup>7</sup> **European Commission.** *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*, COM(2013)716final, Brussels, 2013. Retrieved from: [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms/docs/1\\_en\\_act\\_part1\\_v12.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms/docs/1_en_act_part1_v12.pdf)

<sup>8</sup> **N. Duquet, M. Van Alstein**, 'firearms and violent deaths in Europe', Brussels, Flemish PeaceInstitute, June 2015.

<sup>9</sup> **N. Duquet, M. Van Alstein**, 'firearms and violent deaths in Europe', Brussels, Flemish PeaceInstitute, June 2015.

**Figure 1:** Firearms-related deaths in the EU, 2000-2012



**Source: GunPolicy.org. Assessed on 21 September 2016.** Between 2000 and 2012, we can estimate the total figure of firearms-related deaths in Europe in this period as approximately 94.000. For the 27 EU Member States for which data is available, this figure corresponds to almost 87.000 deaths.

What is important to mention, is that we can observe a strong downward trend in the number of gun deaths can be observed across Europe: between 2000-2012 the number of annual gun deaths decreased by 19% in Europe, with an especially spectacular decrease in gun deaths in Central and Eastern Europe. (see figure page 10) For France and Germany we notice a decrease of 26-28%, while in countries such as Estonia, Latvia, Lithuania, Poland, Moldova and Romania the number halved. However, Cyprus and Ireland form an exception in this downward trend.

The European countries with the highest age-standardized<sup>10</sup> death rates by firearms per 100.000 are Montenegro (8,20), Serbia (3,03), Finland (2,68), Cyprus (2,59), Croatia (2,37)

<sup>10</sup> Age-standardized: a technique used to allow populations to be compared when the age profiles of the populations are quite different.

and France (2,35). The countries with the lowest death rates per 100.000 are Romania (0,15), Poland (0,25), the United Kingdom (0,25), Spain (0,51) and the Netherlands (0,55).

**Figure 2:** Firearms-related deaths in 33 European countries, 2000-2012

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Average /year	Age-standardized death rate per 100 000
Austria			280	245	229	249	242	210	215	235	247	216	230	236,2	2.10
Belgium				330	309	315	256	210	231	189	197			254,6	1.60
Bulgaria						139	135	107	136	170	107	99	120	112,6	1.50
Croatia	200	160	153	140	165	162	139	146	148	145	133	103	120	147,2	2.37
Cyprus					9	11	12	11	13	15	7	7	24	12,1	2.59
Czech Republic	232	254	223	249	208	188	220	193	191	179	185	224	213	212,2	1.71
Denmark	102	89	96	70	99	92	79	65	67	75	86	71	53	80,3	0.84
Estonia	62	45	48	42	36	38	29	24	26	38	34	41	34	38,2	2.22
Finland	235	270	229	255	253	184	206	197	238	206	195	184	157	216,1	2.68
France	2,479	2,340	2,219	2,263	2,063	2,105	2,041	1,836	1,956	1,864	1,736	1,793		2,057.9	2.35
Germany	1,112	1,102	1,061	1,122	1,145	1,044	953	959	953	936	903	878	819	999.0	0.71
Hungary	117	136	124	112	112	105	85	87	95	85	95	91	95	103.0	0.83
Iceland	8	6	3	5	4	5	8	6	4	4				5.3	1.31
Ireland								41	52	57	46			49.0	1.00
Italy				966			807	799	793	769	798	780		816.0	1.07
Latvia	69	72	69	58	47	43	52	48	47	43	32	42	34	50.5	1.52
Lithuania	111	76	62	66	66	63	45	38	47	50	53	37	39	57.9	1.21
Luxembourg	11	9	13	6	6	9	11	14	11	7	11	6	9	9.5	1.54
FYR Macedonia							50	49	35	34	38			41.2	1.85
Malta	8	5	2	2	7	1	4	8	7	6	9	2	6	5.2	1.52
Montenegro <sup>U</sup>						68		49	57	54				57.0	8.20
Netherlands	115	114	105	104	100	104	82	82	78	93	76	96	92	95.5	0.55
Norway	126	109	106	115	103	87	98	67	88	107	87	142	88	101.8	1.62
Poland	211	160	182	154	141	121	97	116	114	116	98	99	104	131.8	0.25
Portugal			221	208				158	160	152	188	142	141	171.3	1.12
Moldova	65	76	57	53	49	33	30	34	21	21	26	37	29	40.8	0.73
Romania	76	59	67	62	51	57	48	35	34	37	42	32	34	48.8	0.15
Serbia	326	350	290	303	276	271	258	289	257	285	284	263	254	285.1	3.03
Slovakia	155	122	128	131	145	113	0	0	83	106	95			98.0	1.62
Slovenia	73	48	65	80	67	61	56	54	61	44	50			59.9	1.95
Spain	331	308	324	350	310	278	293	267	307	322	288	257	261	299.7	0.51
Sweden	169	164	192	141	156	137	139	135	138	157	138	135	141	149.4	1.48
United Kingdom		184	169	174	182	167	199	136	164	138	155			166.8	0.25

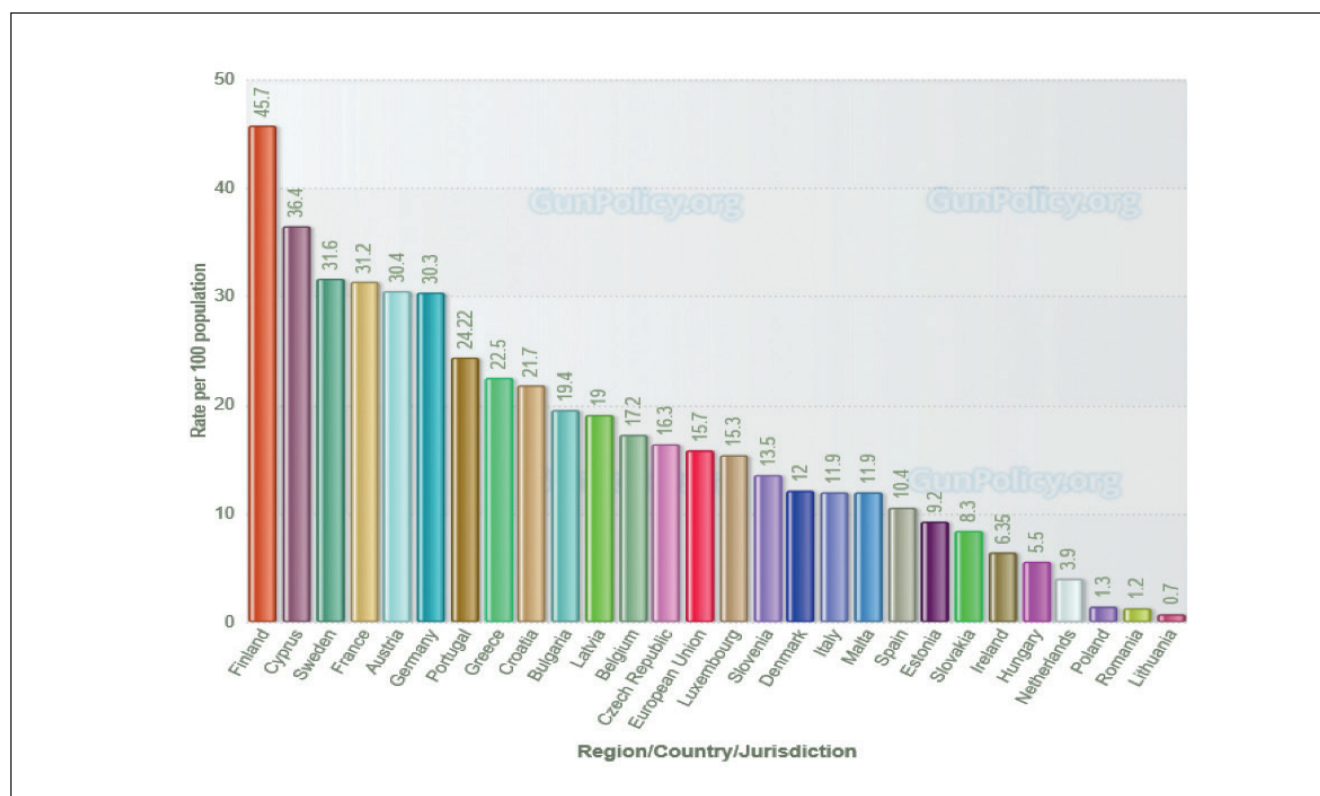
**Source:** European Detailed Mortality Database (WHO). Retrieved from: [http://www.vlaamsvredesinstituut.eu/sites/vlaamsvredesinstituut.eu/files/files/reports/firearms\\_and\\_violent\\_deaths\\_in\\_europe\\_web.pdf](http://www.vlaamsvredesinstituut.eu/sites/vlaamsvredesinstituut.eu/files/files/reports/firearms_and_violent_deaths_in_europe_web.pdf)



However - compared with the United States or other countries in the world - the rates of gun-related violent death in the EU are rather low, this does not mean that this problem is not important and has not appeared on the European policy radar in recent years. In contrary, the attention devoted to this problem by law enforcement agencies and policy-makers has been growing. (see Part 2) Especially because trafficked firearms are not only involved in deaths but in a whole number of criminal acts.

In 2007, the UN estimated that there were **640 million firearms across the world**, which is around 1 illicit firearm per 11 people.<sup>11</sup> Most of them are legally held by armies, police forces and customs services, and by civilians and companies. There are no records of how many illegal firearms there are in the world, but it is clear that millions of weapons are involved.<sup>12</sup> There is estimated that there are **80 million legally-held civilian firearms in the European Union**.<sup>13</sup>

**Figure 3:** Rate of civilian firearm possession per 100 population



**Source:** GunPolicy.org. Assessed on 21 September 2016.

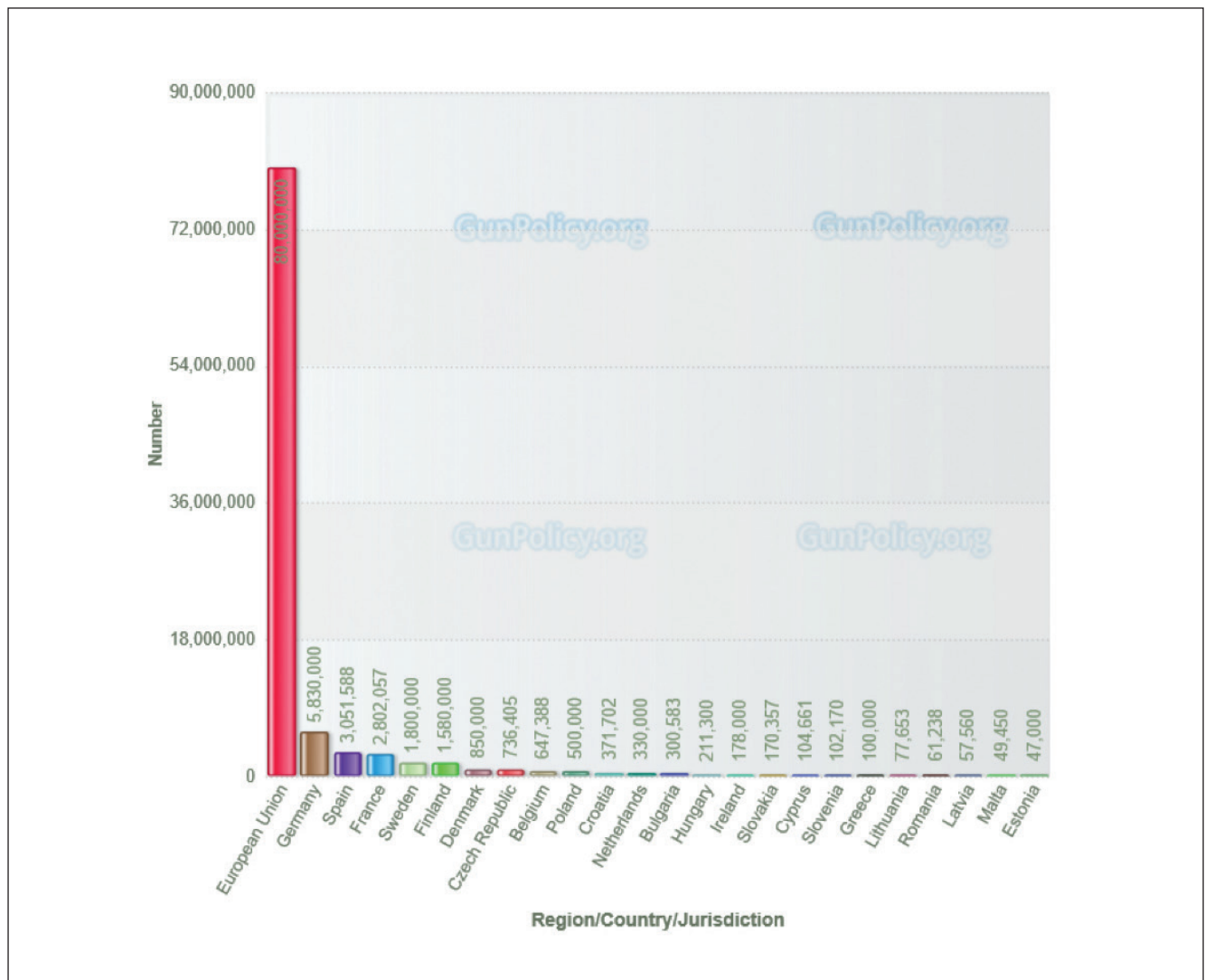
<sup>11</sup> C. Fijnaut, 'De bestrijding van de illegale vuurwapenhandel; Het beleid van de Verenigde Naties en de Europese Unie', in 'Justitiële Verkenningen', 34, nr. 4, 2008, p. 9-28. Retrieved from: <https://www.wodc.nl/onderzoeksdatabank/jv200804-illegale-wapenhandel.aspx>

<sup>12</sup> W. Bruggeman, C. Fijnaut, L. Sievers, T. Spanes, W. Van Erve, 'Pearls in policing – Working Group on small arms and light Weapons. The World's police and the containment of the illegal production, the Illegal Trade and the Illegal Possession of SALW,' The Hague, Netherlands, 15-18 June 2008.

<sup>13</sup> European Commission. 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, COM(2013)716final, Brussels, 2013. Retrieved from: [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms/docs/1\\_en\\_act\\_part1\\_v12.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms/docs/1_en_act_part1_v12.pdf)

The number of legally held firearms is difficult to estimate precisely, however it is reported from survey data that 5% of European Union citizens own a firearm, which means that approximately 25 million persons possess a gun and that there are 79.8 million firearms in the EU. 1/3<sup>th</sup> of firearm ownership is for professional use (police, army, security services), 23% for sports and 5% of firearms are owned for collection purposes. Rates of gun ownership show a decreasing trend over time. Arm possession varies between the different MS: most firearms can be found in the larger MS such as Germany, France, etc. However MS such as Finland, Cyprus or Sweden have a higher gun ownership rates per capita.

**Figure 4:** Number of registered firearms



**Source:** GunPolicy.org. Assessed on 21 September 2016.

Calculating the number of legally-held firearms in Europe is not an easy task given the lack of reliable and comparable official data on gun possession. However, reliable statistics on the number of illegally-held and trafficked firearms in Europe are even harder to find, given the hidden nature of this problem. **The number of illegal firearms in Europe<sup>14</sup>** is unknown, but is estimated to be between 81.000 and 67 million units, which clearly illustrates how hard it is to find out how many firearms there are in Europe. Two approaches could be used: a broad indicator, based on the number of unregistered firearms and a narrower measure, based on firearms seizures. They give enormous different estimates: there are 67 million unregistered firearms in the EU (79% of the 81 million total licit and illicit firearms), while seizures are estimated to account for around 1% of the total, which is 81.000. The first approach is probably an overestimate of the quantity of illicit firearms, whilst the second calculation is almost certainly an underestimate.<sup>22</sup>

Reliable quantifying the problem, the scale, the source and destination of illicit firearms is intrinsically difficult. While there are no precise statistics, the many firearms in illegal circulation are often the result of theft or diversion from their lawful lifecycle, of being illegally imported from third countries and of the conversion of other objects into firearms. Almost half a million firearms lost or stolen in the EU remain unaccounted for, the overwhelming majority of which are civilian firearms, according to the Schengen Information System. The illicit gun market is typically a closed market in Europe: crucial factors are the access to a good network and trust.<sup>16</sup>

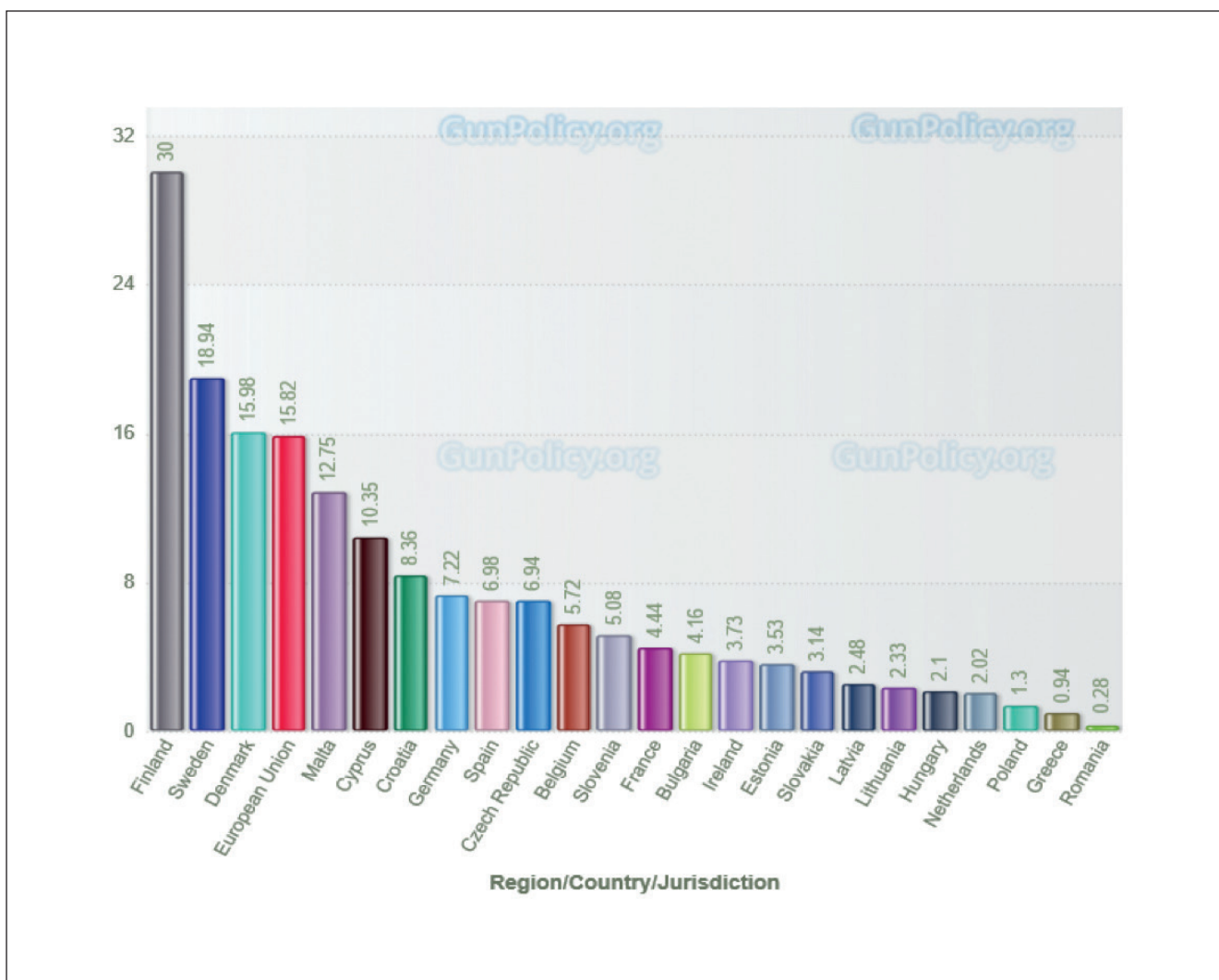
We can conclude that the illicit firearms trafficking cannot be estimated precisely. This makes it impossible to estimate the total number of legally and illegally held firearms in Europe, based on official statistics.

<sup>14</sup> Centre for Strategy & Evaluation Services, *Study to Support an Impact Assessment on Options for Combatting Illicit Firearms Trafficking in the European Union*, Brussels: European Commission Directorate General Home Affairs, July 2014. Retrieved from: [http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/general/docs/dg\\_home\\_-\\_illicit\\_firearms\\_trafficking\\_final\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/general/docs/dg_home_-_illicit_firearms_trafficking_final_en.pdf)

<sup>15</sup> Centre for Strategy & Evaluation Services, *Study to Support an Impact Assessment on Options for Combatting Illicit Firearms Trafficking in the European Union*, Brussels: European Commission Directorate General Home Affairs, July 2014. Retrieved from: [http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/general/docs/dg\\_home\\_-\\_illicit\\_firearms\\_trafficking\\_final\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/general/docs/dg_home_-_illicit_firearms_trafficking_final_en.pdf)

<sup>16</sup> N., Duquet, M., Van Alstein, 'Guns for sale. The Belgian illicit gun market in a European perspective, Brussels, Flemish PeaceInstitute, March 2016.

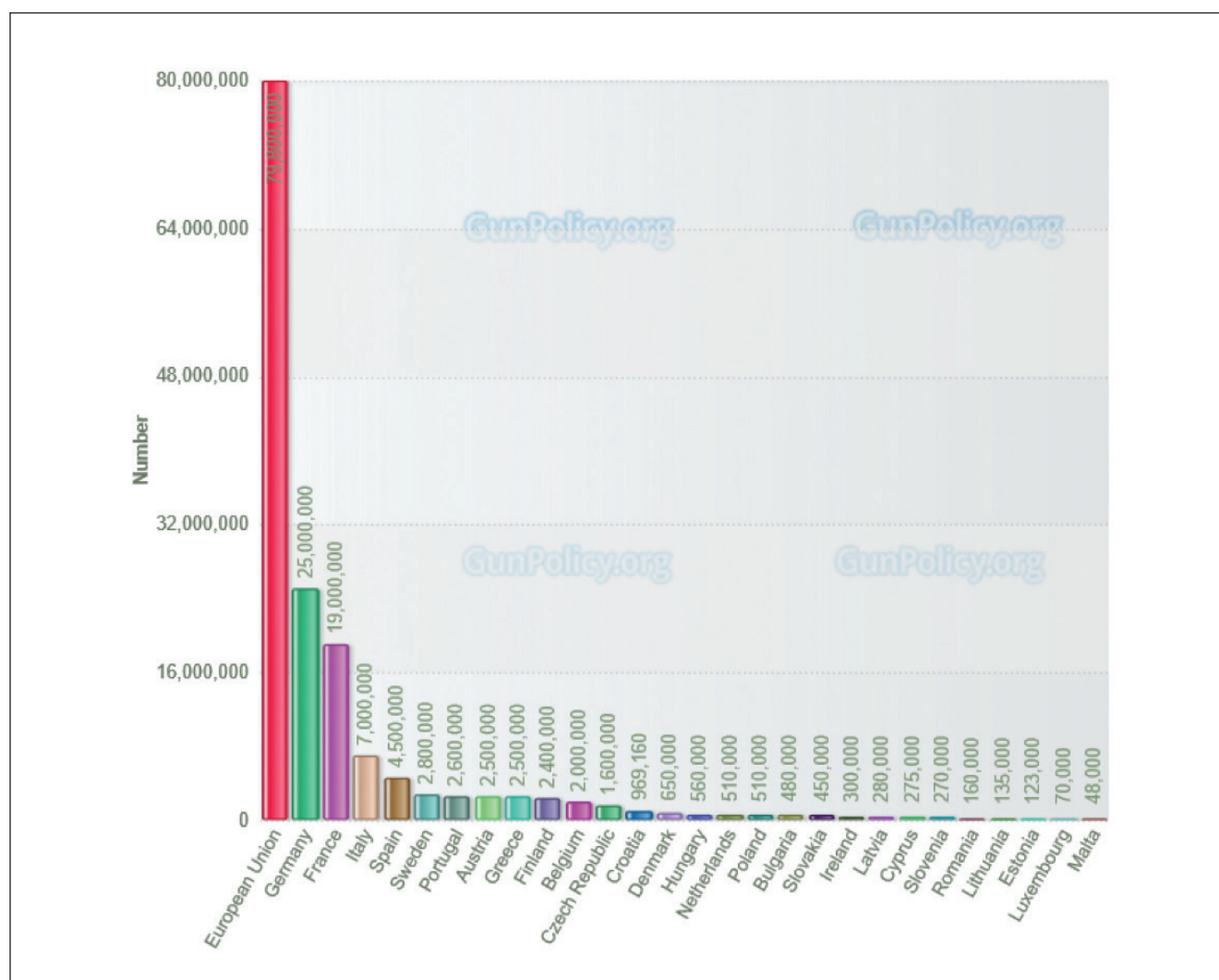
**Figure 5:** Rate of registered firearms per 100 Population



**Source:** GunPolicy.org. Assessed on 21 September 2016.



**Figure 6:** Number of privately owned firearms



Source: GunPolicy.org. Assessed on 21 September 2016.

## Negative impact

Still around 8 million legal firearms are being produced every year, despite the presence of so many firearms already. From an economic point of view, this is a relatively small market, but the **negative impact** of these new firearms on mankind is disproportionally large, as a single firearm can be used to kill, maim or threaten many people over the years.<sup>17</sup>

The firearms trade causes more **social and political problems** than economic problems, because of the durability of firearms: one firearm can be in circulation for several decades. The damage caused by criminal use of firearms is direct and indirect. The direct impact includes the number of killings and injuries, which are over 10.000 in the EU alone over the last decade, in

<sup>17</sup> C. Fijnaut, 'De bestrijding van de illegale vuurwapenhandel. Het beleid van de Verenigde Naties en de Europese Unie', in 'Justitiële Verkenningen', jaargang 34, nr. 4, 2008, pp. 9-28.  
Retrieved from: <https://www.wodc.nl/onderzoeksdatabase/jv200804-illegale-wapenhandel.aspx>

addiction to over 4.000 suicides by firearms each year (see above). The indirect impact cannot be quantified, but they are typically used by all organised crime groups involved in illegal drugs trade and trafficking in human beings to intimidate and coerce their victims. According to the study 'Armed to kill'<sup>18</sup>, every year in Europe, around 1.150 people are shot dead with firearms. These deaths occur in various contexts, including the criminal and relational spheres.

The excessive accumulation and uncontrolled spread of small arms and light weapons (SALW) contributes to **organized crime**, (see later) the illicit firearms' trafficking cannot be seen isolated from **other illegal activities**. Not only does it substantially contribute to firearms availability that increases lethality and insecurity from a wide variety of violent crimes. Moreover there can be particularly close and organic links with organised criminal activities such as drug smuggling, money laundering and human trafficking, as well as with financial crimes and terrorism<sup>19</sup>. Similarly, to the extent that illicit firearms trafficking supports activities such as human trafficking and drugs smuggling, there are clearly social consequences linked to the distress caused to vulnerable groups.

When small firearms disappear into the black market, they become one of many illegal commodities there. Access to illicit firearms is integral to operations of organised trafficking groups, for instrumental purposes of coercion and defence and as a result of their specific gangs' sub-cultures. Furthermore, mini 'arms races' which take place – between rival organised crime groups or between these and law enforcement agencies – can result sometimes in periods of high local demand for military-style firearms with impact on trafficking prices and activities. The firearms can be exchanged for money, drugs, conflict diamonds, endangered species, etc.

Besides, they have a negative impact on the **security of many countries**, threatening their transitions towards economic, developmental and political stability. The supply of stolen, smuggled and converted replica guns fuels urban gang conflicts. They can be the subject of illicit trafficking alongside other controlled goods. This is particularly the case in regions close to areas of actual or potential large-scale conflict.

Finally, illegal firearms trafficking of weapons originating in the EU has negative impacts on countries outside the EU. They aggravate conflicts, destabilize societies and hinder development. Insurgents, armed gangs, extremists, terrorist, etc. can multiply their force through the use of unlawfully acquired firearms.<sup>20</sup> Worldwide, the availability of firearms and ammunition leads to human suffering, political repression, crime and terror. Firearms are used in more than 245.000 murders worldwide, excluding war-torn countries.<sup>21</sup> This is a small percentage of all crimes committed with firearms, which are widely used to support other criminal acts.

<sup>18</sup> N., Duquet, 'Armed to kill. An exploratory analysis of the guns used in public mass shootings in Europe', Brussels, Flemish PeaceInstitute, June 2016.

<sup>19</sup> Europol, 'SOCTA 2013 - EU Serious and Organised Crime Threat Assessment', The Hague, 2013.

<sup>20</sup> Centre for Strategy & Evaluation Services, *Study to Support an Impact Assessment on Options for Combatting Illicit Firearms Trafficking in the European Union*, Brussels: European Commission Directorate General Home Affairs, July 2014.

Retrieved from: [http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/general/docs/dg\\_home\\_-\\_illicit\\_firearms\\_trafficking\\_final\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/general/docs/dg_home_-_illicit_firearms_trafficking_final_en.pdf)

<sup>21</sup> Speech to the CRIM Hearing, 23 April 2013: <http://www.europarl.europa.eu/document/activities/cont/201304/20130425ATT65090/20130425ATT65090EN.pdf>

## Actors in the illicit gun market

In addition to murders committed by individuals - in the context of disputes and general crime - illegally-held firearms are often used by **organised crime groups** to coerce, intimidate or punish their victims and to pursue and sustain their criminal enterprises in rivalry with other criminal groups and in possible opposition to public authorities. Moreover, the use of illicit firearms in organised crime activities, such as drug trafficking, money laundering, prostitution, trafficking human beings, leads to further deaths.<sup>22</sup> This group is, generally considered, the main driver of the illicit firearms market in Europe.<sup>23</sup> As mentioned above, the illicit trafficking of firearms is part of the core business of organised crime groups. The illicit trafficking in firearms is often being named in the same sentence and is closely linked with other illegal activities such as drug smuggling, trafficking in human beings, financial crimes, terrorism, gang violence etc. Firearms leverage other forms of criminality and are used for intimidation, coercion and gang violence. A distinction needs to be made between the different types of criminal milieu: illegal drugs market, the world of armed robbery, organized-crime groups, street gangs and motorcycle gangs. A Dutch study concluded that illicit gun possession by criminals can be mainly found among robbers and drug criminals.<sup>24</sup>

Secondly, **terrorist groups** are often considered to be important actors on the illicit gun market too. The terrorist attacks of the past years have shown the imperative to cut off access to firearms and explosives. The attacks in Paris, Copenhagen and Brussels, as well the attempted attack on a Thalys train, have underlined the fact that terrorist networks are accessing weapons and explosives through organised crime networks and the black market.<sup>25</sup> In the past years, a significant quantity of firearms and ammunition has been found in the possession of different types of terrorist groups, such as religiously-inspired terrorist groups, violent European separatist movements and radical left-wing or right-wing political groups. Terrorist groups in several EU MS are believed to be in contact with the criminal milieu for the acquisition of weapons. However, despite these presumed links with organized crime groups, it is believed that some terrorist groups have their own distribution channels, through which they acquire weapons.<sup>26</sup> The firearms which are used in the recent attacks in Europe, are considered to be of different types and acquired in different ways.

Finally, a third group are the **illegal gun owners who are not directly linked to criminal or terrorist groups, but who possess firearms without having the necessary permits**. The possession of these weapons often became illegal after changes in legislation. Usually, these firearms are not owned with the aim of committing crimes, but this group keeps these firearms

<sup>22</sup> Centre for Strategy & Evaluation Services, *Study to Support an Impact Assessment on Options for Combatting Illicit Firearms Trafficking in the European Union*, Brussels: European Commission Directorate General Home Affairs, July 2014. Retrieved from: [http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/general/docs/dg\\_home\\_-\\_illicit\\_firearms\\_trafficking\\_final\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/general/docs/dg_home_-_illicit_firearms_trafficking_final_en.pdf)

<sup>23</sup> N. Duquet, M. Van Alstein, 'Guns for sale. The Belgian illicit gun market in a European perspective', Brussels, Flemish PeaceInstitute, March 2016.

<sup>24</sup> M.Y. Bruinsma & J.A. Moors, 'Illegale vuurwapens: Gebruik, bezit en handel in Nederland 2001-2003', Tilburg, WODC IVA Tilburg, 2005.

<sup>25</sup> European Commission. *Communication from the Commission to the European Parliament and the Council - Implementing the European Agenda on Security: EU action plan against illicit trafficking in and use of firearms and explosives*, Brussels, December 2015. Retrieved from : [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-security/legislative-documents/docs/20151202\\_communication\\_firearms\\_and\\_the\\_security\\_of\\_the\\_eu\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-security/legislative-documents/docs/20151202_communication_firearms_and_the_security_of_the_eu_en.pdf)

<sup>26</sup> Europol, 'TE-SAT 2011 EU terrorism situation and trend report', 2011, p.12. Retrieved from: [https://www.europol.europa.eu/sites/default/files/publications/te-sat2011\\_0.pdf](https://www.europol.europa.eu/sites/default/files/publications/te-sat2011_0.pdf)

for collection purposes, fun, self-protection, emotional reasons etc. However, this does not mean there are no links between the firearms of the citizens and criminal or terrorist settings. Such a link can result, for example, if the weapons are stolen through burglaries, if the gun owner decides to illegally sell his weapon etc. Once an firearm has been moved into the illegal channels, the extent and the way they circulate on the illegal market is unclear.

## Origins of the weapons

There are numerous sources of illegal weapons in the EU; there are different ways in which firearms can illegally end up in hands terrorists, criminals or ordinary citizens (see above: actors). Like mentioned earlier, the illegal production, trade and possession of firearms is not a new phenomenon. With the end of the Cold War, it became more difficult to contain regional and local armed conflicts across the world, while it became easier to trade illegal firearms. There was a loss of control by the arms depots that remained after the Cold War. In addition of this phenomenon, weapons are being produced illegally by experienced gunsmiths in countries with long traditions in legal arms production, such as Serbia.

We can distinguish 5 groups of acquisition methods, each with their subtypes: **cross-border trafficking, illegal production and alteration, theft, embezzlement and exploiting differences in legislation.**

The most cited-source for illegal firearms market in Europe is cross-border smuggling, often from outside the EU.<sup>27</sup> Because of the freedom of movement and the lack of customs controls at the borders in the EU, the activities of illegal firearms traders has been significantly facilitated. Once a firearm has been smuggled into the EU, it can reach its European country of destination easily.

The alteration of firearms – a specific type of production (for example: reactivating deactivated firearms or converting alarm pistols, gas pistols or replica firearms into sharp-shooting firearms,...) – is considered to be a primary source of illegal firearms possession in some EU Member States.<sup>28</sup> Gas and alarm pistols – freely available in many MS, are easily converted into operational firearms. Furthermore, the possibility of the 3D-printing of firearms will be widely available in the future, as a result of continuing innovation and technological advancements. This could offer new opportunities for people who are interested in acquiring firearms. However, it is unlikely that this becomes a major source of illegal firearms, because of the technical complexity and the ease of access and the relatively low prices of firearms that are traditionally available on the black market in the EU.<sup>29</sup> The **illegal production of firearms** is not one of the most important sources of firearms in the illegal gun market in Europe. The majority of the

<sup>27</sup> N. Duquet, M. Van Alstein, 'Guns for sale, the Belgian illicit gun market in a European perspective', Brussels, Flemish PeaceInstitute, March 2016. Centre for Strategy & Evaluation Services, *Study to Support an Impact Assessment on Options for Combatting Illicit Firearms Trafficking in the European Union*, Brussels: European Commission Directorate General Home Affairs, July 2014. Retrieved from: [http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/general/docs/dg\\_home\\_-\\_illicit\\_firearms\\_trafficking\\_final\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/general/docs/dg_home_-_illicit_firearms_trafficking_final_en.pdf)

<sup>28</sup> EY & SIPRI, 'Study to support an Impact Assessment on a possible initiative related to improving rules on deactivation and marking procedures of firearms in the EU, as well as on alarm weapons and replicas', Brussels: European Commission Directorate-General Home Affairs; Centre for Strategy & Evaluation Services, *Study to support an impact Assessment on Options for Combating illicit firearms trafficking in the European Union*, Brussels: European Commission Directorate-General Home Affairs, 2014.

<sup>29</sup> N. Duquet, M. Van Alstein, 'Guns for sale, the Belgian illicit gun market in a European perspective', Brussels, Flemish PeaceInstitute, March 2016.

firearms were produced legally and sold in the country of manufacture, or exported/imported at some point 'more or less' legally. 'More or less'; because quite a number of arms sales are controversial and fall into a 'grey' area. For example, arms supplies by established states that violate international agreements, such as the ban on supplying arms in situations where serious violations of human rights are to be expected. The millions of illegal weapons cover 'grey' weapons, which are the weapons that are exported to conflict areas under dubious circumstances by arms manufacturers. This happens with or without the knowledge of the local government and that at some stage are traded or smuggled to reach armed groups in neighbouring countries or in other parts of the world. However, one of the biggest problems is that many of these firearms, even the ones produced and traded legally, become illegal at some stage for some reason. The overwhelming majority of illicit firearms in Europe were legally produced, but entered at a certain point in the illegal market.<sup>30</sup>

There are different **embezzlement** methods where firearms can leak from the legal to the illegal circuit. Legal weapons can enter the illegal sphere if a registration update is not performed or when a weapon is kept in a family. Some other examples: the organisation of fake exports (sometimes via intermediaries), falsifying the documents for the importation of firearms, falsification of the mandatory weapon registries that are required to keep, claiming the loss or theft of firearms, a leakage directly from the factory to the illicit circuit, conversion of non-lethal firearms, recycling of discarded weapons or re-use of the surplus parts, fraud by private owners of legal firearms,.... Another frequent occurrence, particularly in war areas, is that soldiers or policemen sell or pass on their firearms to insurgents, rebels or criminals out of poverty, monetary gain or loyalty. Or they may even lose them. Another reason can be that in some cases police and the army sell off arms from their weapons stocks that are then picked up by arms dealers who trade them illegally and for a lot of money to controversial regimes or armed groups. Furthermore, it should not be ignored that many national police services fail to or are unable to control the legal or illegal possession or trade in arms for any number of political, military or organisational reasons. This enables the black market to continue to grow almost unnoticed. Even humanitarian movements increasingly recognise the need to establish strong police forces in post-conflict areas to effectively fight the large-scale trade in illegal arms.

**Theft of firearms**, is an important, however often underestimated, illegal firearms acquisition method in several EU MS. Small or larger quantities of legal weapons are stolen from legal arms dealers and sold afterwards. Almost half a million firearms lost or stolen in the EU remain unaccounted for in the Schengen Information System. Most cases of firearms theft are from homes of private citizens. Furthermore, other firearms can be stolen from firearms dealers, shooting ranges or firearms' manufacturers. Stocks of legally-held firearms are vulnerable to loss, theft or unauthorised misuse, whether these are privately held licensed firearms or held by police, armed forces or other government agencies.

<sup>30</sup> A.C.M. Spapens, 'De logistiek en aanpak van illegal vuurwapenhandel binnen de EU-landen' in 'Justitiële verkenningen', jaargang 34, July (Illegale wapenhandel), 66.

<sup>31</sup> N. Duquet, M. Van Alstein, 'Guns for sale, the Belgian illicit gun market in a European perspective', Brussels, Flemish PeaceInstitute, March 2016

<sup>32</sup> Schengen Information System: a computer system that enables EU MS to share information on firearms reported as lost, stolen or misappropriated.



Finally, because of **the significant differences in legislation**, criminals and others can look for an easy way to acquire a firearm. Persons with maleficent intentions can take advantage of the differences in national legislation regarding the deactivation of firearms and the availability of alarm pistols in Europe.<sup>33</sup>

## Illegal trafficking of firearms, a ‘glocal’ problem

No region in the world is spared from the dramatic consequences of firearms violence. It is obvious that the negative effects of firearms – legal or illegal – are not as serious in the Western countries as in conflict and post-conflict areas (for example Africa and the Middle East), especially if the incidents and suicides involving firearms are disregarded. In many cases, the use of firearms has no big impact on our normal course of affairs in society. However, in some places and under certain circumstances, even in the West, the use of firearms can have a major impact. The distribution of (il)legal SALW causes huge problems everywhere in the world. Despite the differences between continents and in regions, countries and cities, we can say that the SALW problem is a global problem.

While the death toll in the context of armed conflicts is well known, less evident but even more dramatic, is the fact that more lives are lost worldwide from non-conflict firearm events, than during ongoing wars. The problems associated with firearms violence covers the whole spectrum of human security: ranging from high levels of individual physical

The situation in the USA involving youngsters owning firearms is really serious. In the major cities in particular, it has led to the introduction of all sorts of security measures in and around schools preventing shootings wherever possible, with cameras in schoolyards and weapons detection at school entrances.

Another example includes the social unrest caused by the relatively frequent deadly shootings involving young people, as part of gangs or otherwise, in London or other large cities in Britain.

insecurity (domestic violence and street, gang and criminal violence) with serious economic and social consequences for the society at large, to large scale armed conflicts in which these arms enable widespread violence and account for the majority of deaths.

Often, entire continents or oceans are between the legal or illegal production location of the firearms, and the location of their legal or illegal use. This is where the local and global dimensions of the SALW problem come together, which makes it a ‘glocal’ issue. It is obvious that this phenomenon has become even more glocal in the 21<sup>st</sup> century, due to improved means of transportation and the growing Internet sales channels. Revolutions in the transport sector and in communication technology have made the management of this issue in the 21<sup>st</sup> century, both at the local, regional and global level, increasingly complex and difficult.<sup>34</sup>

<sup>33</sup> N. Duquet, M. Van Alstein, ‘Guns for sale, the Belgian illicit gun market in a European perspective’, Brussels, Flemish PeaceInstitute, March 2016.

<sup>34</sup> W. Bruggeman, C. Fijnaut, L. Sievers, T. Spapens, W. Van Erve, ‘Pearls in policing, Working Group on Small Arms and Light Weapons, The World’s police and the containment of the illegal production, the illegal Trade and the illegal possession of SALW – A Report to the pearls in Policing Conference’, The Hague, Netherlands, 15-18 June 2008.

## Conclusion

This chapter of the toolbox made clear that the illegal production, illegal trade and illegal possession of firearms is not a new problem, however the number of armed conflicts that have broken out across the world, the industrial production of firearms and the opportunities to transport, manufacture, distribute and possess firearms have increased dramatically. The size of this problem should not be underestimated, the problems that firearms cause are enormous. **Worldwide**, yearly around 205.000 people die as a result of the use of illicit firearms, excluding the war-torn cities. Also, in the EU there are too many victims of gun-related violence: in the EU alone, more than 5000 murders were committed with firearms, which is around 20% of the murders. The damage caused by firearms can be direct – the number of killings and injuries - and indirect – organised crime groups who use firearms in the illegal drugs trade and the trafficking in human beings to intimidate and coerce victims. Because of the durability of firearms, the firearms trade causes social and political problems – even more than economic problems.

No EU MS is unaffected by firearms violence, it really is a cross-border common challenge. Furthermore, this phenomenon has ‘glocal’ dimension: No region in the world is exempt from the dramatic consequences of firearms violence. Entire continents or oceans are between the location of the (il)legal production of firearms and the location of their (il)legal use. This is where the local and global dimensions come together, which makes it a ‘glocal’ issue. It has become even more glocal in the 21st century, due to improved means of transportation and the growing Internet sales channels. Therefore, it is not an exaggeration to describe small arms – as former UN Secretary-General Kofi Annan once did - as **‘weapons of mass destruction’**.

The attention paid to the problem of the possession of illicit firearms and the illegal trafficking of firearms has increased significantly over the past few years at European level and in the MS. This is important, because it is really crucial that the EU and its MS redouble their efforts to tackle the threat that the illicit trafficking of firearms and the use of explosives cause to the internal security of the European Union. The Dutch Presidency wanted to focus on this theme – within the broad topic of organized crime – which fits within the extra attention that this phenomenon and problem lately gets within the EU.

## **Part 2** EU legislative measures and policy

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### **EU legislative measures and policy**



## Introduction<sup>35</sup>

The 'glocal' character – described on page 22 - of this phenomenon implies that its control demands local measures to be able to target the production, the sale, possession and use of (il)legal SALW, combined with international measures targeting their (il)legal purchase, export, transport and import. Considering these two requirements, it is difficult to work out and implement effective measures to fight illegal arms production, illegal arms trade and illegal possession of arms. The manifold causes at these two levels complicate this problem even more. After all, a differentiated policy for these two levels is necessary; there is no simple remedy for the complex problem.

Looking at the problem from international perspective, the difficulties in trying to regulate cross-border (il)legal trade in SALW acceptable for most (or all) States should be recognised. The different ways in which large numbers of arms have made their way into the black market over the past years leave no doubt about this problem. Not to mention the fact that the illegal arms trade sometimes is connected to other forms of criminal activities, such as the trade in blood diamonds and other mineral resources. It is difficult to supply criminal evidence for the illegal trade of arms: the deals are difficult to identify because they are operated by vague companies, using transportation routes through several countries. Moreover, they are usually conducted between parties that have every interest in ensuring that the deals do not become public.<sup>36</sup>

It is important to connect this international arms trade to the local situations. Firearms - not produced, but available in a country - must have been imported from another country - either legally, via the 'grey' market, or illegally, like described above. The same applies vice versa: weapons exported legally, on the 'grey' market or illegally, are always destined for another country. We can conclude that the problem of SALW requires polices focusing at controlling the possession of the weapons at local level and at controlling the trade at international level. If this two-way approach fails, the efforts that are made will be futile. The international level implies two things:

- the regional level comprising areas, such as Western Europe, Western Africa,...
- the transcontinental global level.

This has as consequence that an adequate policy for the control of the problem of SALW can only be one in which countries have reached agreements. It is important to look at the UN policies in place and consequently the policies put in place by regional institutions such as the European Union. Only these and comparable organisations are able to develop policies that address the local, regional and global dimensions in a coherent manner.<sup>37</sup> We go further into this issue in the next part of the toolbox. We will take a look at which documents have been put into place by the international organizations and the EU to help prevent 'Illegal Trafficking of

<sup>35</sup> W. Bruggeman, C. Fijnaut, L. Sievers, T. Spanes, W. Van Erve, 'Pearls in policing – Working Group on small arms and light Weapons. The World's police and the containment of the illegal production, the Illegal Trade and the Illegal Possession of SALW,' The Hague, Netherlands, 15-18 June 2008.

<sup>36</sup> D. Kinsella, 'The black market in small arms: examining a social network', in 'Contemporary Security Policy', 2006, vol. 27, no 1., p. 100-117

<sup>37</sup> P. Alves, 'Illicit trafficking in firearms: prevention and combat in Rio de Janeiro, Brazil; a national, regional and global issue', Geneva, United National Institute for Disarmament Research, 2000.

Firearms'. Furthermore we will have a look at how far the Member States are with implementing these different regulations and what the differences are between the Member States.

## UN policies

### The UN Firearms Protocol

With the signing of the United Nations Convention against Transnational Organized Crime in Palermo, Italy, December 2000, the international community demonstrated the political will to answer to a global challenge with a global response. This Convention is the main international instrument in the fight against transnational organized crime. The signing of this Convention is an important step in the fight against Organized Crime.

This Convention is supplemented by 3 Protocols, including the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, (Firearms Protocol). This Protocol was adopted by the United Nations General Assembly as Resolution 55/255 on 31 May 2001. This treaty entered into force on 3 July 2005 and was signed by 52 parties. As of November 2015 it has 114 parties, including 113 States and the European Union.

The Firearms Protocol prevails, to date, to be the only legally binding international instrument in the field of firearms control. It establishes a global framework for States to control and regulate licit arms manufacturing and flows, prevent their diversion into the illegal circuit and facilitate the investigation and prosecution of related offences.<sup>38</sup>

The purpose of the Firearms Protocol – the first legally binding instrument on small arms adopted at global level – was to promote, facilitate and strengthen the cooperation among States Parties in order to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition. It served to reinforce the cooperation between States fighting the illegal production of and the illegal trade in firearms, and the investigation and prosecution of offenders who belong to an organised criminal group and whose crimes are transnational in character.

The Firearms Protocol includes provisions for the penalization of the illegal production of and illegal trade in weapons, the identification and registration of weapons, the import, transfer and export of weapons, the regulation of activities by arms dealers and settling conflicts between the States that had ratified this protocol.<sup>39</sup> By ratifying or acceding to the Firearms Protocol, States make a commitment to adopt and implement a series of crime-control measures that aim, inter alia, at establishing the illicit manufacturing of and trafficking in firearms as a criminal offence in line with the Protocol's requirements and definitions.

<sup>38</sup> C. Fijnaut, H.-J. Albrecht, 'transnational organized crime; comments on the UN Convention of December 2000', Freiburg i.B., Max Planck Institut für ausländisches und internationales Strafrecht, 2000.

<sup>39</sup> D. McClean, 'Transnational Organized Crime; a commentary on the UN Convention and its protocols', Oxford, Oxford University Press, 2007, p. 447-504.

## The Programme of Action to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects (2001)<sup>40</sup>

In 2001, UN Member States signed up to a politically binding plan to tackle small arms. They did this amidst a growing awareness that the illicit manufacture, transfer and circulation of small arms and light weapons - and their excessive accumulation and uncontrolled spread in many parts of the world - was undermining human security and development. Therefore, the Programme of Action to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its Aspect (PoA) came into existence.

This PoA contains national, regional and global commitments to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects. This covers a wide range of issue areas, including: small arms manufacturing, marking, record-keeping and tracing, stockpile management and security, surplus identification and disposal, international transfers, brokering, public awareness, disarmament, demobilization and reintegration programmes, international cooperation and assistance to facilitate implementing of this PoA.

As you can expect, this programme sums up numerous measures used to achieve the goals. These goals included, for instance, a measure requiring the set-up of national institutions for the development of policies on the illegal trade in firearms, and for monitoring the implementation of policies by the services involved, as well as a measure requiring national contact points to promote interstate cooperation in implementing the PoA.

Bearing in mind the different situations, capacities and priorities of States and regions, the following measures to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects had to be undertaken; at national level, regional level and at global level.

### Arms Trade Treaty

The UN Arms Trade Treaty (ATT) is a multilateral, legally-binding agreement that establishes common standards for the international trade of conventional weapons and seeks to reduce the illicit arms trade. It aims to reduce human suffering, caused by illegal and irresponsible arms transfers, improve regional security and stability, as well as to promote accountability and transparency by state parties concerning transfers of conventional arms. The ATT is not an arms control treaty and does not place restrictions on the types or quantities of arms that may be bought, sold, or possessed by states. Furthermore, it does not impact a state's domestic gun control laws or other firearm ownership policies.

The ATT is the result of nearly 20 years of advocacy and diplomacy. The Arms Trade Treaty was initiated as a result of a UN resolution in 2006 to provide common international standards for the import, export and transfer of conventional weapons. After years of preparation, the treaty

<sup>40</sup> <http://www.poa-iss.org/PoA/poahtml.aspx>

was negotiated in New York City at a global conference under the auspices of the UN in July 2012. As it was not possible to reach an agreement on a final text at that time, a new meeting for the conference was scheduled for March 2013 to complete the work on the treaty. On 2 April 2013, the UN General Assembly finally adopted the ATT. Certain elements of the Treaty concern matters falling under EU competence, EU Member States required an authorization by the Council, based on a proposal of the Commission, to sign and ratify the Treaty. The Treaty entered into force on 24 December 2014. States required an authorization by the Council, based on a proposal of the Commission, to sign and ratify the Treaty. The Treaty entered into force on 24 December 2014. The ATT is an attempt to regulate the international trade of conventional weapons for the purpose of contributing to international and regional peace, security and stability; reducing human suffering; promoting co-operation, transparency, and responsible action by and among states by regulating international trade in conventional arms and eradicating the illicit arms trade.

### What the Arms Trade Treaty does:

- ✓ It requires all states-parties to adopt basic regulations and approval processes for the flow of weapons across international borders, establishes common international standards that must be met before arms exports are authorized, and requires annual reporting of imports and exports to a treaty secretariat. In particular, the treaty requires that states “establish and maintain a national control system, including a national control list” and “designate competent national authorities in order to have an effective and transparent national control system regulating the transfer of conventional arms”;
- ✓ Prohibits arms transfer authorizations to states if the transfer would violate “obligations under measures adopted by the United Nations Security Council acting under Chapter VII of the Charter of the United Nations, in particular arms embargoes” or under other “relevant international obligations” or if the state “has knowledge at the time of authorization that the arms or items would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes”;
- ✓ Requires states to assess the potential that the arms exported would “contribute to or undermine peace and security” or could be used to commit or facilitate serious violations of international humanitarian or human rights law, acts of terrorism, or transnational organized crime; to consider measures to mitigate the risk of these violations; and, if there still remains an “overriding risk” of “negative consequences,” to “not authorize the export”;
- ✓ Applies under Art. 2(1) to all conventional arms within the seven categories of the UN Register of Conventional Arms (battle tanks, armored combat vehicles, large-caliber artillery systems, combat aircraft, attack helicopters, warships, and missiles and missile launchers) and small arms and light weapons;
- ✓ Requires that states “establish and maintain a national control system to regulate the export of ammunition/munitions fired, launched or delivered by” the conventional arms listed in Art. 2(1) and “parts and components...that provide the capability to assemble” the conventional arms listed in that article;

- ✓ Requires each state to “take the appropriate measures, pursuant to its national laws, to regulate brokering taking place under its jurisdiction” of conventional arms covered under Article 2(1);
- ✓ Requires each state to “take measures to prevent...diversion” of conventional arms covered under Art. 2(1);
- ✓ Requires each state to submit annually to the treaty secretariat a report of the preceding year’s “authorized or actual export and imports of conventional arms covered under Art. 2(1)” and allows states to exclude “commercially sensitive or national security information”

[https://www.armscontrol.org/factsheets/arms\\_trade\\_treaty](https://www.armscontrol.org/factsheets/arms_trade_treaty)

### UNODC Model Law

The final UN instrument is the Model Law developed in 2011 by the UNODC (United Nations Office on Drugs and Crime). This was a response to the request of the General Assembly to the Secretary-General to promote and assist the efforts of MS to become party to and implement the UN Convention against Transnational Organized Crime and the Protocols thereto. It was developed in particular to assist States in implementing a legislative regime consistent with the provisions contained in the UN Firearms Protocol, supplementing the UN Convention against Transnational Organized Crime.

#### The model Law is divided into 3 parts:

1. Part 1, introductory provisions, contains Model Law text on the introductory provisions and definitions States may choose to include in their domestic legislation. Terms used in the Firearms Protocol are included in the definitions. Additionally, draft definitions are suggested for other terms used in the present Model Law. It includes definitions of ‘firearms’ and ‘illicit firearms trafficking’ that follow those included in the Protocol.
2. Part 2, mandatory provisions, contains the Model Law text on all the mandatory provisions of the Firearms Protocol that States are required to ensure are included in their domestic legislation. This includes chapters on preventive measures aimed at regulating the manufacturing, marking, record-keeping and international transfers of firearms, their parts and components and ammunition. The mandatory penal provisions that derive from the preventive measure and the mandatory international cooperation measures are also included in chapters in this part. This section includes model provisions on the criminalization of illicit firearms trafficking pursuant to the general provisions in the Protocol.
3. Part 3, non-mandatory provisions, elaborates on provisions in the Firearms Protocol on brokers and brokering activities that States are required to consider for inclusion in their national legislation.
4. Annex I, additional considerations, contains other provisions that States can consider for inclusion in their national legislation. They are included to assist States in developing comprehensive legislation on various aspects of firearms regulation. This section includes suggestions for optional firearms-related offences which a State can also consider for inclusion in their national legislation.



## EU legislative measures and policy

As explained in the first part of the toolbox, the attention paid to the problem of the possession of illicit firearms and the illegal trafficking of firearms has increased significantly. Combating the illicit gun market has consequently become a matter of pressing on the national and the international security, like explained before. The various problems caused by the spread of illicit SALW have led the EU to recognize their destabilizing effect on regional and national security. These concerns led to the development of a series of legislative and policy initiatives in the Member States and the European Union.<sup>41</sup>

Since the control of firearms is crucial in the fight against crime, as mentioned above, the EU has taken already several measures to complement the work of Member States in addressing the risk of criminal use of firearms. The attention paid to the problem of the possession of illicit firearms and the illegal trafficking of firearms has increased significantly in the past few years at European level and at the level of the Member States. According to an Eurobarometer survey<sup>42</sup>, most Europeans are worried about the level of crimes using firearms, and expect the European Union to take action in close collaboration with national governments. The disruption of illicit manufacturing and trafficking in firearms was one of the European Union's nine law enforcement priorities '14-'17.<sup>43</sup>

The concerns about these problems, have led to the development of a series of legislative and policy initiatives in the EU and in the Member States. The EU has some of the toughest rules on firearms in the world, including a general ban on the civilian sale of automatic rifles.<sup>44</sup> The EU has taken several initiatives in the framework of its Common Foreign and Security Policy. It is crucial that the EU, especially the Member States, redouble their efforts to tackle the serious threat that the illicit trafficking of firearms and the use of explosives pose to the internal security of the Union.

### *Directive 91/477/EEC and Directive 2008/51/EC*

At EU level, acquisition and possession of weapons and related matters are regulated by two Directives: **Directive 91/477/EEC (June 1991)**<sup>45</sup> on Control of the Acquisition and Possession of Weapons and **Directive 2008/51/EC, amending 91/447/EEC**. These two Directives are designed to ensure control of acquisition and possession of weapons, facilitate the flow of firearms in a single market, and transpose into EU law the UN Protocol Against the Illicit Manufacturing and Trafficking of Firearms.

<sup>41</sup> N. Duquet, M. Van Alstein, 'Guns for sale. The Belgian illicit gun market in a European perspective', Brussels, Report from the Flemish PeaceInstitute, March 2016

<sup>42</sup> European Commission, 'Flash Eurobarometer 383: Firearms in the European Union', TNS Political & Social, Brussels, 2014. Retrieved from: [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms/docs/fl383\\_firearms\\_report\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms/docs/fl383_firearms_report_en.pdf)

<sup>43</sup> Council of the European Union. Draft European Action Plan to combat illegal trafficking in so called 'heavy' firearms which could be used or are used in criminal activities, Brussels, 29 November 2010. Retrieved from: <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2016427%202010%20REV%201>

<sup>44</sup> European Parliament and the Council of the European Union. Directive 2008/51/EC of the European Parliament and of the Council of 21 May 2008 amending Council Directive 91/447/EEC on control of the acquisition and possession of weapons. Retrieved from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:179:0005:0011:EN:PDF>

<sup>45</sup> Council of Europe, Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons, retrieved from <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:31991L0477>

With the introduction of the Common Market and the gradual elimination of European internal borders, the EU implemented **Firearms Directive 91/477/EEC in 1991**. This Directive established the minimum requirements for all EU MS for the legal purchase and possession of firearms. However, MS remained free to impose more stringent rules pertaining to firearms – many MS have done so too. The Directive sets rules on the acquisition, possession, movement and transfer of different categories of firearms for civilian use in the EU, while granting more flexible rules for hunting and target shooting. It does not apply to the acquisition or possession of weapons and ammunition by the armed forces, police, public authorities, collectors and bodies concerned with the cultural and historical aspects of weapons, nor does it concern commercial transfers of weapons and ammunition of war.

The most important provision of the Directive is the classification of firearms into four categories – based on their level of dangerousness - with different rules for each category for their acquisition and possession: prohibited, subject to authorization, subject to declaration, those that are not subject to requirements.

- **category A** (fully automatic weapons and military weapons) cannot be owned by private persons unless they have been deactivated;
- **category B** (repeating and semi-automatic firearms) can be owned by private persons subject to authorization;
- **category C** (less dangerous repeating and semi-automatic firearms and singleshot firearms used mainly by hunters) can be owned by private persons subject to declaration;
- **category D** (single-shot long firearms with smooth-bore barrels) can be owned by private persons and are not subject to authorization or declaration.

Furthermore, a European Firearms Pass was introduced by this Directive. The authorities of a MS issue this Pass upon request to a person who lawfully possesses and uses a firearm. The pass is nontransferable and is valid for a maximum period of 5 years, which can be extended. It contains certain information, such as possession of any firearm by the holder or of any change or characteristic in the firearm and any loss or theft.

The impetus behind this Directive was to facilitate the freedom of movement of firearms within the internal market and, at the same time, to introduce some safeguards concerning acquisition and possession of weapons. Two subsequent factors necessitated the adoption of a new Directive, namely Directive 2008/51/EC: First, the signing on 16 January 2002 by the European Commission on behalf of the European Community of the United Nations Protocol on the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition (see above). Secondly, the need to address certain issues, that arose during the implementation of Directive 91/477/EEC, which were cited by the Commission in its 2000 report.

This Directive was amended in 2008 to satisfy the provisions of the 2011 UN Firearms Protocol: this Protocol obliged the EU to mark weapons at the time of manufacture and at the time of transfer from government stocks to civilian use. Directive 91/477/EEC did not provide a clear obligation. So a number of new provisions were adopted, including the requirement

for a ‘good cause’ for the acquisition and possession of a firearm, the implementation of a maximum duration for specific licenses, and requirements for regular checks on the conditions of possession, and for the mandatory marking and registration of all firearms that enter the internal market. The 2008 Directive *increased* the Protocol’s minimum time period for *retaining firearms information in registers from 10 to 20 years*.

The Directive of 1991 and its amendment in 2008 were an important step towards the harmonization of European Firearms legislation. Because Directive 91/477/EEC established minimum requirements, MS had the authority to impose stricter controls on the acquisition of weapons. By 2000, all the then-EU Members had transposed the Directive internally. However, due to the flexibility granted to the MS no full harmonization has been achieved. (For example, a number of EU MS have not adopted the classification of firearms prescribed by Directive 91/477/EEC, since national legislation either requires an authorization of all firearms or imposes a ban on all firearms. Moreover, some MS classify “war weapons” or prohibit firearms considered as hunting firearms in other MS.) Several MS, such as France, Belgium and Austria, had to amend their legislation on long firearms substantially because, prior to Directive 91/477/EEC, they had in place liberal laws and allowed the sale of sporting guns freely. However the purpose of the ‘91 Directive was to converge national firearms legislations in the EU – for example by introducing a categorization of firearms linked to different requirements for possession – significant differences in legislation could still be observed. These differences can be exploited by criminals, persons with maleficent intentions or persons looking for an easy way to acquire a firearm. These people could take advantage of the differences in national legislation regarding the deactivation of firearms and the availability of alarm pistols in Europe.<sup>46</sup>

Whereas Directive 91/477/EEC distinguished between weapons and firearms, Directive 2008/51/EC abandons the distinction and opts for a new and precise definition of firearms.

*An important requirement of the 2008 Directive is that all MS must ensure that firearms can be linked to their owners at any time.* EU MS must ensure that any firearm or part that is placed on the market, has been marked and registered or that it has been deactivated. In order to identify and trace each firearm, the Directive obliges EU MS, at the time of manufacture of each firearm, to either

- “*require a unique marking that includes 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)*”; or
- “*maintain any other unique and user-friendly marking with a number or alphanumeric code*” that allows easy identification of the country of manufacture by all Members.

EU MS are required to register every firearm. By December 2014 they had to establish and maintain a computerized data-filing system that allows designated authorities access to registered firearms. Firearms records, such as make, model, serial number, supplier’s information and data on the person who acquires or possesses a firearm, are required to

<sup>46</sup> N. Duquet, M. Van Alstein, ‘Guns for sale. The Belgian illicit gun market in a European perspective’, Brussels, Flemish PeaceInstitute, March 2016.



be kept for a minimum of twenty years. Furthermore EU MS are required to establish rules regulating the activities of brokers and to include measures such as requiring the registration of brokers and the licensing or authorization of arms brokering activities.

### ***Regulation (EU) No 258/2012***

The key legislation at EU level is Directive 91/447/EEC and Regulation (EU) No 258/2012. Directive 91/477/EEC deals with transfers of firearms for civilian use within the EU territory. Regulation No. 258/2012 establishes rules for export authorization and import and transit measures for firearms, their parts and components, and ammunition. The Regulation implements article 10 of the United Nations Protocol Against the Illicit Manufacturing of and Trafficking in Firearms. This Article requires signatories to adopt or improve administrative procedures designed to exercise control over the manufacturing, marking, import, and export of firearms. The scope of the Regulation covers firearms for civilian use and excludes firearms that are intended for military purposes. Any export of firearms, their parts, and essential components and ammunition is subject to an authorization granted by the competent authorities of the MS where the exporter is established. Article 11 of Regulation No. 258/2012 requires EU MS to refuse to grant an export authorization if the applicant has a criminal record related to an offense listed in article 2(2) of the Council Framework Decision on the European Arrest Warrant or any other offense punishable by a maximum term of imprisonment of at least four years. EU MS are authorized to annul, suspend, or revoke an export authorization if the conditions for granting it are no longer met.

### ***EU policy and EU action plan against illicit trafficking in and use of firearms and explosives – the most recent developments***

The responsibility for ensuring internal security is first and foremost with the EU MS, however, cross-border challenges defy the capacity of the MS to act alone. The MS require EU support to build trust and facilitate cooperation, exchange of information and joint action. The past years, several initiatives have been taken at European level,<sup>47</sup> such as every firearm produced in the EU must be marked and traceable nowadays; in order to buy or own a firearm a person must have 'good cause' to do so and be at least 18 years old; Authorization to sell firearms is conditional on at least a check on the private and professional integrity of the dealer; the European Firearms Pass has simplified the travel for hunters and sports shooters wishing to engage in their lawful activities in other MS or in the rest of the world; Imports, exports and transfers of firearms must comply with specified authorization standards under Regulation No 258/2012, in line with the UN Firearms Protocol (for civilian firearms) and Council Decision 2008/944/CFSP and Directive 2009/43/EC (for military weapons); As a customs union, the EU operates a common risk criteria and IT systems for managing risks relating to the movement of goods crossing the EU external border,... The EU is uniquely placed to help disrupt criminal markets through its laws and funding streams, through police and customs cooperation and engagement with third countries and international organisations.

<sup>47</sup> N. Duquet, M. Van Alstein, 'Guns for sale. The Belgian illicit gun market in a European perspective', Brussels, Flemish PeaceInstitute, March 2016.

In December 2010, the European Council announced an Action Plan to combat the illicit trafficking of 'heavy' firearms intended for criminal networks.<sup>48</sup> In March 2013, the European Commission has set up a firearms expert group<sup>49</sup> to provide a forum for dialogue and the sharing of experience and best practice among experts from law enforcement authorities of the EU MS and representative and specialist of the private sector. This Firearms Experts Group provides expertise in the field of illicit trafficking in firearms and produces threat assessments on international firearms trafficking, distribution within MS, extent of firearms related crime and responses by law enforcement authorities across the EU. They have produced a manual<sup>50</sup> on tracing the ownership of firearms, which has been adopted by the Council and is helping to standardise procedures for cross-border investigations into seized or recovered crime-related firearms.

Furthermore, access to relevant information is paramount: important instruments for Member States include the Customs Information System (CIS), Schengen Information System (SIS) and Europol's database on stolen firearms (iARMS). Besides, CEPOL has carried out - as part of the law enforcement training scheme - a 'gap analysis' to identify the training needs for tackling the risk of firearms.

Also in March 2013, the European Commission proposed that the EU institutions should ratify the UN Firearms Protocol (see before). This Protocol was designed to tighten controls on the manufacture and trafficking of small firearms, such as handguns and pistols. Implementing this Protocol involves 3 main legal measures: criminalising the illicit manufacture and trafficking of firearms; introducing a system of authorising or licensing legitimate manufacturers and vendors of firearms; and establishing marking and recording regimes to ensure effective tracing of firearms. Most, but not all, MS had themselves already ratified the UNFP.

Furthermore, on 21 October 2013, the European Commission proposed a series of legislative and operational measures to support the fight against illegal firearms<sup>51</sup> the Commission adopted a comprehensive blueprint<sup>52</sup> for Europe to act together in protecting the legal sale and ownership of firearms, and preventing gun-related crime.

In December 2013, the Council of Ministers decided to prioritize firearms as part of the 2014-2017 'policy cycle' for combating serious and organized crime, for which a European Action Plan<sup>53</sup> for his period was developed. It complements ongoing international cooperation under

<sup>48</sup> **Council of the European Union**, *European Action Plan to combat illegal trafficking in so called 'heavy' firearms that could be used or are used in criminal activities*, 3051st Justice and Home Affairs Council meeting, Brussels, 2-3 December 2010.

<sup>49</sup> **European Commission**, *Commission Decision of 11.04.2013. Setting up an expert group on measures against illicit trafficking in firearms to safeguard the EU's internal security ('the Firearms Expert Group')*, C(2013)1993 final, Brussels, 2013. Retrieved from [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms/docs/firearms\\_expert\\_group\\_setup\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms/docs/firearms_expert_group_setup_en.pdf)

<sup>50</sup> **Council of the European Union**, *Proposal for a Council Recommendation on a standard procedure in Member States for cross-border enquiries by police authorities in investigating supply channels for seized or recovered crime-related firearms*, Brussels, 25 May 2007. Retrieved from: <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2010000%202007%20INIT>

<sup>51</sup> **European Commission**, *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*, COM(2013)716final, Brussels, 2013. Retrieved from: [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms/docs/1\\_en\\_act\\_part1\\_v12.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms/docs/1_en_act_part1_v12.pdf)

<sup>52</sup> **European Commission**, *Communication from the Commission to the Council and the European Parliament. Firearms and the internal security of the EU*, COM(2013)716final, Brussels, 2013. Retrieved from: [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms/docs/1\\_en\\_act\\_part1\\_v12.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms/docs/1_en_act_part1_v12.pdf)

<sup>53</sup> **European Commission**, *Communication from the Commission to the Council and the European Parliament. Firearms and the internal security of the EU*, COM(2013)716final, Brussels, 2013. Retrieved from: [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms/docs/1\\_en\\_act\\_part1\\_v12.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms/docs/1_en_act_part1_v12.pdf)

the Schengen Convention, the Naples II Convention and the Convention on Mutual Assistance in Criminal Matters. In April 2015, the European Commission set out a European Agenda on Security for the period '15-'20 (which was a priority for President Juncker) to support MS' cooperation in tackling security threats and step up our common efforts in the fight against terrorism, organised crime and cybercrime. This Agenda sets out concrete tools and measures which will be used in this joint work to ensure security and tackle these 3 most pressing threats more effectively. In this Agenda and the work program for 2016 - committed to the delivery of the European Agenda on Security - the Commission promised to review the existing legislation on firearms in 2016 to improve the sharing of information, to reinforce traceability, to standardize marking and to establish common standards for neutralizing firearms.

Due to the Paris terrorist attacks in November 2015, the earlier attacks in Paris and Copenhagen and in light of the aim to strengthen the fight against trafficking of firearms in a coherent way, the Commission decided to advance the review of the EU rules on firearms, which was planned for 2016.

In November 2015, The European Commission presented an Evaluation report<sup>54</sup> on the application of this directive as part of a package of measures on firearms. This package of measures included a proposal for a revision of the Firearms Directive (Directive 91/477/EEC). This evaluation report on the Firearms Directive and other studies identified several problems in relation to provisions of the Firearms Directive, such as an unclear definition of convertibility with no common understanding of which types of alarm weapons can be converted into operable firearms; lack of common guidelines on deactivation standards; non-harmonized rules on marking; making tracing difficult in relation to cross-border offences, and so forth. The report concluded that some semi-automatic arms can easily be converted to automatic arms and that the Firearms Directive does not provide any technical criteria to prevent such conversion. It suggested possible solutions to address these problems, which served as a basis for the new legislative proposal by the Commission.

On 18 November 2015, the European Commission adopted a package of measures that sought to tighten control on the acquisition and possession of firearms in the EU, improve traceability of legally held firearms and enhance cooperation between MS, as well as ensure that deactivated firearms are rendered inoperable.<sup>55</sup> These measures, foreseen in the European Agenda on Security of April 2015, consist of the proposal for amendments to Directive 91/477/EEC. It aims to ban some semi-automatic firearms for civilian use, as well as to include some previously excluded actors (collectors and brokers) and blank-firing weapons within the scope of the Directive. These proposed number of amendments to the should make it harder for criminals to obtain certain types of weapons and will further harmonize national firearms legislations.<sup>56</sup>

<sup>54</sup> **European Commission**. Report from the commission to the European Parliament and the Council. *Evaluation of Council Directive 91/477/EC of 18 June 1991, as amended by Directive 2008/51/EC of 21 May 2008, on control of the acquisition and possession of weapons*. Brussels, 18 November 2015. Retrieved from: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52015DC0751>

<sup>55</sup> **European Commission**, press release, European Commission strengthens control of firearms across the EU, Brussels, 18 November 2015. Retrieved from [http://europa.eu/rapid/press-release\\_IP-15-6110\\_en.htm](http://europa.eu/rapid/press-release_IP-15-6110_en.htm)

**European Parliament**, Briefing EU legislation in Progress, Control of the acquisition and possession of weapons, Brussels, 6 September 2016. Retrieved from: [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/586656/EPRS\\_BRI\(2016\)586656\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/586656/EPRS_BRI(2016)586656_EN.pdf)

<sup>56</sup> **European Commission**. *Proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on the control of the acquisition and possession of weapons*, Brussels, 18 November 2015. Retrieved from: [http://europa.eu/rapid/press-release\\_IP-15-6110\\_en.htm](http://europa.eu/rapid/press-release_IP-15-6110_en.htm)

On 10 June 2016, the Council adopted its general approach on the file. On 13 July the Parliament's IMCO Committee voted on amendments to the proposal; a mandate to open trilogue negotiations with the Council was voted on 5 September.<sup>57</sup> Furthermore, on 15 December 2015, a **Commission Implementing Regulation** was adopted establishing common guidelines on deactivation standards and techniques.<sup>58</sup>

The main objectives of the proposals of the European Commission to amend the EU Firearms Directive of the Commission (18/11/2015)

***To make it more difficult to acquire firearms, including deactivated firearms***

- Stricter conditions for the online acquisition of firearms, to avoid the acquisition of firearms, pieces thereof or munition through the Internet;
- Stricter rules to ban certain **semi-automatic firearms**, which move from Category B to Category A and will not, under any circumstances, be allowed to be held by private persons, even if they have been permanently deactivated;
- The inclusion of **blank-firing weapons** (e.g. alarm, signaling, life-saving weapons) in the scope of the Directive, because of their potential to be transformed into firearms.
- Further restrictions to the use and circulation of deactivated firearms. National registries should keep records of deactivated firearms and their owners. Under no **circumstances will civilians be authorised to own any of the most dangerous firearms** falling under Category A (e.g. a Kalashnikov), which is currently possible if they have been deactivated. The enforcement of the ban is a national responsibility, and Member States have all necessary tools at their disposal including the destruction of illegally held deactivated arms;
- **Collectors**, as defined by national law, are currently excluded from the scope of the Directive. The Commission is proposing today to change this, since collectors have been identified as a possible source of traffic of firearms. In the future, collectors will have the possibility to acquire firearms, but subject to the same authorisation/declaration requirements as private persons.
- **Brokers** will be brought into the scope of the Directive, since they provide services similar to those of dealers. Member States will have to introduce regulation covering the registration, licensing and/or authorisation of brokers and dealers operating within their territory.

***Better traceability of firearms***

- Tighter rules on **marking of firearms** to improve the traceability of weapons by making them harder to erase (e.g. by affixing markings on the receiver), extending the obligation to imported firearms and clarifying on which components the marking should be affixed. Member States will have to keep the data until the destruction of the firearm (i.e. not only for 20 years as currently the case).

***Stronger cooperation between Member States***

- Better **exchange of information between Member States**, for example on any refusal of authorisation decided by another national authority, interconnection of national registers to ensure full European cooperation, and obligations for dealers and brokers to connect their registers to national registers.

Source: [http://europa.eu/rapid/press-release\\_MEMO-15-6111\\_en.htm](http://europa.eu/rapid/press-release_MEMO-15-6111_en.htm)

<sup>57</sup> **European Parliament.** Briefing EU Legislation in Progress: Control of the acquisition and possession of weapons, Brussels, 6 September 2016. Retrieved from: [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/586656/EPRS\\_BRI\(2016\)586656\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/586656/EPRS_BRI(2016)586656_EN.pdf)

<sup>58</sup> **European Commission.** Commission Implementing Regulation (EU) 2015/2403 of 15 December 2015 establishing common guidelines on deactivation standards and techniques for ensuring that deactivated firearms are rendered irreversibly inoperable, Brussels, 15 December 2015. Retrieved from: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L\\_.2015.333.01.0062.01.ENG](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2015.333.01.0062.01.ENG)



In addition to these measures, a **European Action Plan to target the illicit trafficking of firearms and explosives in the EU**, adopted on 2 December 2015, is made. The aim of this Action Plan was to better detect, investigate and seize firearms, explosives and explosives precursors to be used for criminal and terrorist purposes.

The Action Plan key elements are:

- **Restricting access to illegal firearms and explosives:** The Action Plan invites all Member States to set up inter-connected **national focal points** on firearms to develop expertise and improve analysis and strategic reporting on illicit trafficking in firearms, notably through the combined use of both ballistic and criminal intelligence. It also foresees a **stronger role for Europol** regarding online trafficking and the diversion of legal trade through its recently established Internet Referral Unit. The Action Plan urges Member States to **fully implement EU rules on Explosives precursors**.
- **Enhance operational cooperation:** The Action Plan urges the Member States to set up or expand the existing **cyber-patrol teams** to firearms, explosives and explosives precursors. **Controls at the external borders**, as well as police and customs cooperation should be strengthened by risk-based controls on goods whether arriving in commercial traffic (e.g. containers), in passenger transport (e.g. cars) or in passengers' luggage. The Action Plan also proposes to establish a **Customs Priority Control Action** with Member States on the illicit trafficking of firearms at the EU's external borders.
- **Improve gathering and sharing of operational information:** The Action Plan calls on Member States to **make full use of existing tools to facilitate information exchange** and systematically insert information on sought firearms into the Schengen Information System and Interpol's iARMS where available. **Exchange on ballistic information** should be strengthened through a dedicated platform.
- **Stronger cooperation with third countries:** In order to reduce the illegal import of firearms and the access to explosives into the European Union, the Action Plan proposes to step up **cooperation with third countries** through the systematic inclusion of firearms trafficking and use of explosives into security dialogues with key partner countries and organisations. In addition to reinforcing the cooperation with the key countries of the **Western Balkans**, the European Commission proposes to enhance cooperation with countries in the **Middle East** and **North Africa** as well as with **Turkey** and **Ukraine**. Particular consideration is given to the establishment of a dialogue with countries in the Sahel region, with the Arab League and with international organisations. In certain cases, EU financial assistance could be envisaged as regards the confiscation and the decommissioning of firearms.

Additionally the action plan reinforces operational collaboration, both within the EU and with neighbouring countries.<sup>59</sup> This Action Plan complements the measures adopted on 18 November 2015 (see earlier) aimed at tightening controls on the legal acquisition and possession of firearms and implementing common minimum standards for the deactivation of firearms. The

<sup>59</sup> **European Commission.** Communication from the Commission to the European Parliament and the Council. Implementing the European Agenda on Security: *EU action plan against illicit trafficking in and use of firearms and explosives*, COM(2015)624 final, Brussels, 2 December 2015. Retrieved from: [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-security/legislative-documents/docs/20151202\\_communication\\_firearms\\_and\\_the\\_security\\_of\\_the\\_eu\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-security/legislative-documents/docs/20151202_communication_firearms_and_the_security_of_the_eu_en.pdf)

Action Plan seeks to improve operational cooperation at EU level and with third countries to render the fight against the black market of weapons and explosives more effective.

## Policy measures in the EU Member States

The responsibility for ensuring internal security is first and foremost with the MS of the European Union. As explained before, the cross-border challenges defy the capacity of the MS to act alone, so they require EU support to build trust and facilitate cooperation, exchange of information and joint action.

After looking at these different international and European measures, actions, legislation,... to fight against the illicit trafficking of firearms, we will now take a closer look at what the EU MS do with these international and European conventions. This is especially important since the international and European conventions are general guidelines: it is up to the Member States to implement them into their policies and their legislation.

### United Nations Firearms Protocol

UN Protocol against Illicit Manufacturing and Trafficking in Firearms, their Parts and Components and Ammunition has been signed and ratified by the European Union. The EU signed this Firearms Protocol on 16 January 2002, following Council authorisation adopted in October 2001. Almost every MS has signed and ratified this Protocol. This protocol is in force in 22 MS, a further 3 Member States signed it, but have not yet ratified it. 3 MS did not sign the Protocol.

Comparison: Signature/ratification status of the UN Firearms Protocol of the EU Member States

Austria	has been signed (12/11/2001) and ratified	Italy	has been signed (14/11/2001) and ratified
Belgium	has been signed (11/06/2002) and ratified	Latvia	has been signed and ratified (accession: 28/07/2004)
Bulgaria	has been signed (15/02/2002) and ratified	Lithuania	has been signed (12/12/2002) and ratified
Croatia	has been signed and ratified (accession: 07/02/2005)	Luxembourg	has been signed (11/12/2002), but not yet ratified
Cyprus	has been signed (14/08/2002) and ratified	Malta	has not been signed
Czech Republic	has been signed and ratified (accession: 24/09/2013)	Netherlands	has been signed and ratified (accession: 08/02/2005)
Denmark	has been signed (27/08/2002) and ratified	Poland	has been signed (12/12/2002) and ratified
Estonia	has been signed (20/09/2002) and ratified	Portugal	has been signed (03/09/2002) and ratified
Finland	has been signed (23/01/2002) and ratified	Romania	has been signed and ratified (accession: 16/04/2004)
France	has not been signed	Slovakia	has been signed (26/08/2002) and ratified
Germany	has been signed (03/09/2002), but not yet ratified	Slovenia	has been signed (15/11/2001) and ratified
Greece	has been signed (10/10/2002) and ratified	Spain	has been signed and ratified (accession: 09/02/2007)
Hungary	has been signed and ratified (accession: 13/07/2011)	Sweden	has been signed (10/01/2002) and ratified
Ireland	has not been signed	United Kingdom	has been signed (06/05/2002), but not yet ratified

**Source:** <http://www.gunpolicy.org/firearms/region/european-union> and [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsq\\_no=XVIII-12-c&chapter=18&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsq_no=XVIII-12-c&chapter=18&clang=_en)

## Firearm Regulation - Guiding Policy

The regulation of guns in the EU is categorized as restrictive. Licensing laws that allow all but the prohibited categories of persons to acquire guns can be called permissive, since most people are able to meet licensing requirements. Before an applicant can be denied a license or a firearm owner's identification card, the administering agency must show that the applicant is a member of one of the prohibited groups.

Another approach to firearms control is restrictive licensing. Under such a system a person seeking to buy a firearm, typically a handgun, must provide the licensing authority with evidence of good character and have a valid reason why he needs the firearm. In restrictive licensing, the presumption used in permissive systems is reversed: the applicant must give a sufficient reason for allowing him to have a gun rather than the licensing authority being required to show a reason for denying the request. Instead of saying "all but..." members of the prohibited classes may possess firearms, the restrictive system provides that "nobody but..." those who are specifically approved may possess the firearms covered by the system. Restrictive licensing attempts to reduce firearms violence, by substantially reducing the number of firearms in circulation. Almost every Member State has a restrictive firearms guiding policy.

Comparison: The regulation of guns in the EU Member States: guiding policy

Austria	permissive	Ireland	restrictive
Belgium	restrictive	Latvia	restrictive
Bulgaria	restrictive	Lithuania	restrictive
Croatia	restrictive	Luxembourg	restrictive
Cyprus	restrictive	Malta	restrictive
Czech Republic	restrictive	Netherlands	restrictive
Denmark	restrictive	Poland	restrictive
Estonia	restrictive	Romania	restrictive
Finland	restrictive	Slovakia	restrictive
France	restrictive	Slovenia	restrictive
Germany	restrictive	Spain	restrictive
Greece	restrictive	Sweden	restrictive
Hungary	restrictive	United Kingdom	restrictive

**Source:** <http://www.gunpolicy.org/firearms/region/european-union>

## Restricted Firearms and Ammunition

In the EU, civilians are not allowed to possess automatic firearms, firearms disguised as other objects and armour-piercing, incendiary and expanding ammunition.<sup>60</sup> The MS should take all the steps to prohibit the acquisition and the possession of the firearms and ammunition classified in category A (prohibited firearms: (1) explosive military missiles and launchers, (2) automatic firearms, (3) firearms disguised as other objects, (4) ammunition with penetrating, explosive or incendiary projectiles, and the projectiles for such ammunition, (5) pistol and revolver ammunition with expanding projectiles and the projectiles for such ammunition, except in the case of weapons for hunting or for target shooting, for persons entitled to use them)<sup>61</sup>. In the table below, you can see the different rules of the EU MS in regards of which weapons civilians are not allowed to possess.

Comparison: the different rules of the MS in regards of which weapons civilians are not allowed to possess.

Austria	Civilians are not allowed to possess automatic firearms, firearms disguised as other objects, and armour-piercing, incendiary and expanding ammunition
Belgium	Civilians are not allowed to possess military weapons, automatic firearms, and their ammunition, concealable firearms, silencers, laser sights, and high capacity cartridges
Bulgaria	Civilians are not allowed to possess automatic firearms, firearms disguised as other objects, and armour-piercing, incendiary and expanding ammunition
Croatia	Civilians are not allowed to possess automatic weapons, semiautomatic arms and repeating long-barrelled firearms with a rifled barrel and magazine whose capacity is more than five rounds, long-barrelled firearms without a fixed grip, with a folding grip or with a grip shorter than 25cm, silencers, armour piercing and incendiary ammunition, or any other arms intended exclusively for military of police purposes
Cyprus	Civilians are not allowed to possess automatic firearms, firearms disguised as other objects, and armour-piercing, incendiary and expanding ammunition
Czech Republic	Civilians are not allowed to possess military weapons, automatic firearms, firearms disguised as other objects, and armour-piercing, incendiary and expanding ammunition
Denmark	Civilians are not allowed to possess automatic firearms, firearms disguised as other objects, and armour-piercing, incendiary and expanding ammunition
Estonia	Civilians are not allowed to possess smoothbore guns with an overall length of less than 840mm, automatic firearms, military weapons, armour-piercing, explosive, incendiary, or hollow-pointed ammunition, and silencers, laser or night sight devices
Finland	Civilians are not allowed to possess automatic firearms, disguised firearms, armour piercing and incendiary ammunition

<sup>60</sup> **European Council**. 1991 'Article 6.' *Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons (91/477/EEC) [current to 2008 amendments]*; Chapter 2. Brussels: Council of the European Communities. 18 June

<sup>61</sup> **European Council**. 1991 'Annex 1.' *Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons (91/477/EEC) [current to 2008 amendments]*. Brussels: Council of the European Communities. 18 June



France	Civilians are not allowed to possess weapons of war, certain handguns and long guns, automatic firearms, firearms disguised as other objects, and armour-piercing, incendiary and expanding ammunition
Germany	Civilians are not allowed to possess automatic firearms, firearms disguised as other objects, and armour-piercing, incendiary and expanding ammunition
Greece	Civilians are not allowed to possess automatic firearms, firearms disguised as other objects, and armour-piercing, incendiary and expanding ammunition
Hungary	Civilians are not allowed to possess automatic firearms, firearms disguised as other objects, and armour-piercing, incendiary and expanding ammunition
Ireland	Civilians are not allowed to possess handguns, military-style weapons, semi-automatic and automatic firearms without appropriate registration
Italy	Civilians are not allowed to possess automatic firearms, firearms disguised as other objects, and armour-piercing, incendiary and expanding ammunition
Latvia	Civilians are not allowed to possess imitation, sawn-off firearms, automatic category A firearms, military smooth-bore firearms, short-barrelled category B firearms
Lithuania	Civilians are not allowed to possess automatic weapons (category A), military sniper rifles, unmarked firearms, craft weapons, armour-piercing ammunition
Luxembourg	Civilians are not allowed to possess long guns and handguns, automatic firearms, firearms disguised as other objects, and armour-piercing, incendiary and expanding ammunition
Malta	Civilians are not allowed to possess automatic firearms, firearms disguised as other objects, and armour-piercing, incendiary and expanding ammunition
Netherlands	Civilians are not allowed to possess automatic and 'Category II' firearms, incendiary and armour-piercing ammunition
Poland	Civilians are not allowed to possess automatic firearms, firearms disguised as other objects, and armour-piercing, incendiary and expanding ammunition
Portugal	Civilians are not allowed to possess automatic firearms, firearms disguised as other objects, and armour-piercing, incendiary and expanding ammunition
Romania	Civilians are not allowed to possess automatic firearms, firearms disguised as other objects, and armour-piercing, incendiary and expanding ammunition
Slovakia	Civilians are not allowed to possess automatic firearms, firearms disguised as other objects, and armour-piercing, incendiary and expanding ammunition
Slovenia	Civilians are not allowed to possess automatic firearms, firearms disguised as other objects, and armour-piercing, incendiary and expanding ammunition
Spain	Civilians are not allowed to possess automatic firearms, firearms disguised as other objects, and armour-piercing, incendiary and expanding ammunition

Sweden	Civilians are not allowed to possess automatic firearms, firearms disguised as other objects, and armour-piercing, incendiary and expanding ammunition
United Kingdom	Civilians are not allowed to possess semi-automatic and automatic firearms, handguns and armour piercing ammunition

Source: <http://www.gunpolicy.org/firearms/region/european-union/>

In the EU, private possession of fully automatic weapons is prohibited<sup>62</sup>, private possession of semi-automatic assault weapons is permitted only with special authorization<sup>63</sup>. Also, the private possessions of handguns (pistols and revolvers) is only permitted with special authorization. In the table below, it is written out how it is regulated in every MS.<sup>64</sup>

Comparison: The different rules of the Member States in regards of the private possession of fully automatic weapons, semi-automatic assault weapons and private possession of handguns.

MS	Private possession of fully automatic weapons	Private possession of semi-automatic assault weapons	Private possession of handguns.
AT	prohibited	permitted only with special authorisation	permitted only with special authorisation
BE	prohibited	permitted only with special authorisation	permitted only with special authorisation
BG	permitted under licence	permitted under licence	permitted under licence
HR	prohibited	permitted under licence	permitted under licence
CY	prohibited	permitted only with special authorisation	permitted only with special authorisation
CZ	prohibited, with only narrow exceptions	permitted only with authorisation	permitted only with authorisation
DK	prohibited	permitted only with special authorisation	permitted only with special authorisation
EE	prohibited	permitted under licence	permitted under licence
FI	prohibited, with few exceptions	permitted under licence in some cases	permitted under licence in some cases
FR	prohibited	permitted under licence	prohibited with only narrow exemptions
DE	prohibited	permitted only with special authorisation	permitted only with special authorisation
EL	prohibited	permitted only with special authorisation	permitted only with special authorisation
HU	prohibited	permitted only with special	permitted only with special

<sup>62</sup> **European Council.** 1991 'Annex 1.' *Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons (91/477/EEC) [current to 2008 amendments]*. Brussels: Council of the European Communities. 18 June  
**European Council.** 1991 'Article 6.' *Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons (91/477/EEC) [current to 2008 amendments]*; Chapter 2. Brussels: Council of the European Communities. 18 June

<sup>63</sup> **European Council.** 1991 'Article 7.' *Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons (91/477/EEC) [current to 2008 amendments]*; Chapter 2. Brussels: Council of the European Communities. 18 June  
**European Council.** 1991 'Article 8.' *Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons (91/477/EEC) [current to 2008 amendments]*; Chapter 2. Brussels: Council of the European Communities. 18 June

<sup>64</sup> **European Council.** 1991 'Article 7.' *Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons (91/477/EEC) [current to 2008 amendments]*; Chapter 2. Brussels: Council of the European Communities. 18 June  
**European Council.** 1991 'Article 8.' *Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons (91/477/EEC) [current to 2008 amendments]*; Chapter 2. Brussels: Council of the European Communities. 18 June

MS	Private possession of fully automatic weapons	Private possession of semi-automatic assault weapons	Private possession of handguns.
IE	restricted	restricted	restricted
IT	prohibited	permitted only with special authorisation	permitted only with special authorisation
LV	prohibited	permitted under licence	permitted under licence, up to 9mm
LT	prohibited	permitted under licence	permitted under licence
LU	prohibited	permitted only with special authorisation	prohibited
MT	prohibited	permitted only with special authorisation	permitted only with special authorisation, for shooting and collection only
NL	prohibited	prohibited	permitted under licence
PL	prohibited	permitted only with special authorisation	permitted only with special authorisation, for hunting, shooting and protection only
PT	prohibited	permitted only with special authorisation	permitted only with special authorisation
RO	prohibited, with only narrow exemptions for persons exercising 'public authority'	prohibited, with only narrow exemptions for persons exercising 'public authority'	prohibited with only narrow exemptions for persons exercising 'public authority'
SK	prohibited	permitted only with special authorisation	permitted only with special authorisation
SI	prohibited	permitted only with special authorisation	permitted only with special authorisation
ES	prohibited	permitted only with special authorisation	permitted only with special authorisation
SE	prohibited	permitted only with special authorisation	permitted under licence, in some cases, but not for the protection of person or property
UK	prohibited	prohibited	prohibited

Source: <http://www.gunpolicy.org/firearms/region/european-union>

## Gun ownership and possession

In the EU, only licensed gun owners<sup>65</sup> may lawfully acquire, possess or transfer a firearm or ammunition. Every MS has indeed implemented this: in every MS, only licensed gun owners may lawfully acquire, possess or transfer a firearms or ammunition.

Applicants who want a license as a gun owner in the EU are required to establish a genuine reason to possess a firearms, for example for hunting, shooting,...<sup>66</sup> Furthermore the minimum

<sup>65</sup> **European Council.** 1991 'Article 4a.' *Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons (91/477/EEC) [current to 2008 amendments]*; Chapter 2. Brussels: Council of the European Communities. 18 June  
European Council. 1991 'Article 6.' *Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons (91/477/EEC) [current to 2008 amendments]*; Chapter 2. Brussels: Council of the European Communities. 18 June  
European Council. 1991 'Article 7.' *Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons (91/477/EEC) [current to 2008 amendments]*; Chapter 2. Brussels: Council of the European Communities. 18 June

<sup>66</sup> **European Council.** 1991 'Article 5.' *Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons (91/477/EEC) [current to 2008 amendments]*; Chapter 2. Brussels: Council of the European Communities. 18 June

age for gun ownership is 18 years in the EU. Moreover, an applicant for a firearm license in the EU must pass a background check which considers criminal and various other records. Finally, licensed firearms owners in the EU are permitted to possess only ammunition suitable for the intended firearm.<sup>67</sup>

Article 5 of the Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons (91/477/EEC):

MS shall permit the acquisitions and possession of firearms only by persons who have good cause and who

- (a) 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 licensed or otherwise approved training centre;
- (b) 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 a firearm if any of the conditions on the basis of which it was granted are no longer satisfied. MS may not prohibit persons resident within their territory from possessing a weapon acquired in another Member State unless they prohibit the acquisition of the same weapon within their own territory.

Comparison: The different rules of the Member States in regards of gun ownership and possession (genuine reason to possess a firearm, minimum age, background check and limit on quantity, type of ammunition)

MS	Genuine reason to possess a firearm	Minimum Age	Background check	Limit on Quantity, Type of Ammunition
AT	are required to establish a genuine reason to possess a firearm, for example hunting, target shooting, collection, personal protection, security	18 years, or 21 years for handguns	criminal and mental health	only ammunition suitable for the intended firearm
BE	are required to establish a genuine reason to possess a firearm, for example hunting, target shooting, collection, personal protection, security	18 years	criminal and various other	a limited quantity of ammunition
BG	are required to establish a genuine reason to possess a firearm, for example self-defence, hunting, sporting, cultural purposes	full legal age	criminal, mental health and substance abuse	any quantity of ammunition
HR	are required to establish a genuine reason to possess a firearm, for example hunting, target shooting, collection, personal protection, security	18 years	criminal, physical health, domestic violence, and addiction	any quantity of ammunition

<sup>67</sup> European Council. 1991 'Article 10.' Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons (91/477/EEC) [current to 2008 amendments]; Chapter 2. Brussels: Council of the European Communities. 18 June

MS	Genuine reason to possess a firearm	Minimum Age	Background check	Limit on Quantity, Type of Ammunition
CY	are required to establish a genuine reason to possess a firearm, for example hunting, target shooting, collection, personal protection	18 years	criminal, mental health and domestic violence	only ammunition suitable for the intended firearm
CZ	are required to establish a genuine reason to possess a firearm, for example hunting, target shooting, collection, personal protection, security	between 15 and 21 years	health, mental health, criminal and addiction	only ammunition suitable for the licensed firearm
DK	are required to establish a genuine reason to possess a firearm, for example hunting, target shooting, collection	18 years	criminal and mental health	only ammunition suitable for the intended firearm
EE	are required to establish a genuine reason to possess a firearm, for example hunting, target shooting, collection, personal protection, security, and during filming or performance	18 years for sporting and hunting firearms, shotguns, gas and air-powered firearms, and 21 for all other firearms	criminal, medical, mental health, addiction, and military	a limited quantity of ammunition
FI	are required to establish a genuine reason to possess a firearm, for example hunting, target shooting, gun collecting, employment requirements	18 years, or 15 years with parental consent	criminal and mental health	any quantity of ammunition
FR	are required to establish a genuine reason to possess a firearm, for example hunting, target shooting, personal protection, security and collection	18 years (except for sports shooters between 12 and 18 years old)	criminal, mental health and health	a limited quantity of ammunition
DE	are required to establish a genuine reason to possess a firearm, for example hunting, target shooting, collection and security	18 years	criminal, mental health and addiction	only ammunition suitable for the intended firearm
EL	are required to establish a genuine reason to possess a firearm, for example hunting, target shooting, personal protection, security	18 years	criminal, mental health and domestic violence	only ammunition suitable for the intended firearm
HU	are required to establish a genuine reason to possess a firearm, for example hunting, target shooting, collection, personal protection, security	18 years	criminal, mental health and domestic violence	only ammunition suitable for the intended firearm
IE	are required to establish a genuine reason to possess a firearm	16 years	criminal, mental health and medical	any quantity of ammunition
IT	are required to establish a genuine reason to possess a firearm, for example self-defence, hunting, sport, work or performance of duties, as well as collection	18 years	criminal and mental health	only ammunition suitable for the intended firearm
LV	are required to establish a genuine reason to possess a firearm, for example self-defence, hunting, sport, work or performance of duties, as well as collection	18 years	criminal, mental health, addiction, medical and prohibited military	only 500 cartridges of same calibre
LT	are required to establish a genuine reason to possess a firearm, for example hunting, sports, self-defence, professional activities, collecting, training, scientific research, other purposes that conform to international laws and agreements	-23 years: handguns for self-defence and collectors permits (having passed an examination + obtained a permit), -21 years: semi-automatic assault rifles, all handguns (incl semi-automatics), hunting rifles and all firearms for professional activities after passing an examination and having obtained a permit (incl automatic firearms for official duties),	criminal, mental health, medical, physical fitness and addiction	only 500 cartridges of each type (calibre) for the weapons they possess or an unlimited number of cartridges for sporting purposes

MS	Genuine reason to possess a firearm	Minimum Age	Background check	Limit on Quantity, Type of Ammunition
LT		-18 years: semi-automatic shotguns and smooth-bore hunting firearms for self-defence (having passed an examination and obtained a permit), -16 years: sports-shooting firearms and airguns		
LU	are required to establish a genuine reason to possess a firearm, for example hunting, target shooting, collection, personal protection, security	18 years	criminal and mental health	only ammunition suitable for the intended firearm
MT	are required to establish a genuine reason to possess a firearm, for example hunting, target shooting, collection	18 years	criminal, mental health and domestic violence	only ammunition suitable for the intended firearm
NL	are required to establish a genuine reason to possess a firearm, for example hunting, sports shooting, collection	18 years	criminal	any quantity of ammunition
PL	are required to establish a genuine reason to possess a firearm, for example hunting, target shooting, personal protection, security	18 years	criminal, mental health and domestic violence	only ammunition suitable for the intended firearm
PT	are required to establish a genuine reason to possess a firearm, for example hunting, target shooting, personal protection, security	18 years	criminal and mental health	only ammunition suitable for the intended firearm
RO	are required to establish a genuine reason to possess a firearm, for example hunting, target shooting, self-defence, collection	18 years	criminal and mental health	ammunition appropriate for up to two weapons, and only the type and in quantities appropriate to the firearms specified on the licence
SK	are required to establish a genuine reason to possess a firearm, for example hunting, target shooting, collection, personal protection, security	21 years or 18 years with a hunting training certificate	criminal and mental health	only ammunition suitable for the intended firearm
SI	are required to establish a genuine reason to possess a firearm, for example hunting, target shooting, collection, personal protection, security	18 years	criminal, mental health and domestic violence	only ammunition suitable for the intended firearm
ES	are required to establish a genuine reason to possess a firearm, for example hunting, target shooting, collection, personal protection, security	18 years, with exceptions	criminal, mental health, physical and domestic violence	only ammunition suitable for the intended firearm
SE	are required to establish a genuine reason to possess a firearm, for example hunting, target shooting, collection and self-defence (but in practice, no such licences are ever granted)	18 years	criminal and mental health	only ammunition suitable for the intended firearm
UK	are required to establish a genuine reason to possess a firearm, for example hunting, target shooting or collection	-14 years for licence -17 years for purchase or 21 years to purchase shotguns	criminal, mental health and addiction	only approved quantities of ammunition

Source: <http://www.gunpolicy.org/firearms/region/european-union>



## Firearms Registration

In the EU, the law requires that a record of the acquisition, possession and transfer of each privately held firearm needs to be retained in an official register. In fact, in every MS, a civilian gun registration, is required. Additionally, in the EU, licensed firearm dealers are required to keep a record of each firearm or ammunition purchase, sale or transfer on behalf of a regulating authority. Such a gun deal record keeping is in every Member State required.

## Gun sale and Transfers: Regulation of Dealer Gun Sales.

In the European Union, dealing in firearms by way of business without a valid gun dealer's license is unlawful, which is the same for each MS in the European Union.<sup>68</sup>

## Marking and Tracing Guns and Ammunition

In the EU, a unique identifying mark on each firearm is required by law.<sup>69</sup> In the EU, state authorities carry out recognised arms tracing and tracking procedures.<sup>70</sup>

Article 4 of the Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons (91/477/EEC):

1. MS shall ensure either that any firearm or part placed on the market has been marked and registered in compliance with this Directive or that it has been deactivated.
2. For the purpose of identifying and tracing each assembled firearms, MS shall, at the time of manufacture of each firearm, either:
  - (a) 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. For these purposes, the Member States may choose to apply the provisions of the Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms; or
  - (b) maintain any alternative unique user-friendly marking with a number or alphanumeric code, permitting ready identification by all States 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.

MS shall ensure that each elementary package of complete ammunition is marked so as to provide the name of the manufacturer, the identification batch (lot) number, the calibre and the type of ammunition. For these purposes MS may choose to apply the provisions of the Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms.

MS shall ensure, at the time of transfer of a firearm from government stocks to permanent civilian use, the appropriate unique marking permitting identification by States of the transferring country.

<sup>68</sup> **European Council.** European Council. 1991 'Article 4 Point 3.' *Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons (91/477/EEC) [current to 2008 amendments]*; Chapter 2. Brussels: Council of the European Communities. 18 June  
**European Council.** 1991 'Article 8.' *Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons (91/477/EEC) [current to 2008 amendments]*; Chapter 2. Brussels: Council of the European Communities. 18 June

<sup>69</sup> **European Council.** 1991 'Article 4. Points 1 and 2' *Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons (91/477/EEC) [current to 2008 amendments]*; Chapter 2. Brussels: Council of the European Communities. 18 June

<sup>70</sup> **European Council.** 1991 'Article 4. Points 1 and 2' *Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons (91/477/EEC) [current to 2008 amendments]*; Chapter 2. Brussels: Council of the European Communities. 18 June

MS	Firearm Marking	Firearm tracing
Austria	is required by law	carry out
Belgium	is required by law in some cases	carry out
Bulgaria	is required by law	carry out
Croatia	is required by law	carry out
Cyprus	is required by law	carry out
Czech Republic	is required by law	carry out
Denmark	is required by law	carry out
Estonia	is required by law	carry out
Finland	is required by law	carry out
France	is required by law	carry out
Germany	is required by law	carry out
Greece	is required by law	carry out
Hungary	is required by law	carry out
Ireland	is required by law	carry out
Italy	is required by law	carry out
Latvia	is required by law	carry out
Lithuania	is required by law	carry out
Luxembourg	is not required by law	carry out
Malta	is not required by law	carry out
Netherlands	is required by law	carry out
Poland	is required by law	carry out
Portugal	is required by law	carry out
Romania	is required by law	carry out
Slovakia	is required by law	carry out
Slovenia	is required by law	carry out
Spain	is required by law	carry out
Sweden	is required (in practice rather than law)	carry out
UK	is required by law	carry out

Source: <http://www.gunpolicy.org/firearms/region/european-union>

## Gun trade and trafficking

In the EU and in every MS, firearm and ammunition exports are limited by transfer control law. Also, in the EU and every MS, firearm and ammunition imports are limited by transfer control law. Furthermore, in the EU, and specific in every MS, the activities of arms brokers and transfer intermediaries are specifically regulated by law.

**European Council.** 1991 'Article 4. Points 4 and 5.' Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons (91/477/EEC) [current to 2008 amendments]; Chapter 2. Brussels: Council of the European Communities. 18 June

## Conclusion

The global character of this phenomenon demands local measures combined with international and European measures. Because there is no simple remedy to combat this complex problem, a differentiated policy for these 2 levels is necessary.

At international level, we had the **UN Firearms Protocol**. This is one of the 3 Protocols of the UN Convention against Transnational Organized Crime (2000) - the main international instrument in the fight against transnational organized crime. The Firearms Protocol is the only legally binding international instrument in the field of firearms control, which establishes a global framework for States to control and regulate licit arms manufacturing and flows, prevent their diversion into the illegal circuit and facilitate the investigation and prosecution of related offences. Furthermore at international level, we mentioned **the UN Arms Trade Treaty (ATT)**: a multilateral, legally-binding agreement that establishes common standards for the international trade of conventional weapons and seeks to reduce the illicit arms trade. It aims to reduce human suffering, caused by illegal and irresponsible arms transfers, improve regional security and stability, as well as to promote accountability and transparency by state parties concerning transfers of conventional arms.

At European level and at level of the MS, we mentioned that the attention paid to the problem of the possession of illicit firearms and the illegal trafficking of firearms has increased significantly. Trafficking in illicit firearms has been on the political agenda of the EU for at least a decade already. The concerns about these problems have led to the development of a series of legislative and policy initiatives in the EU and in the MS. The EU has some of the toughest rules on firearms in the world. It was the European Commission that suggested in 2006 to bring EU law into line with the UN Firearms Protocol, in the Stockholm Programme from 2009 the EU MS highlighted arm trafficking as a continuing security challenge for the EU, in 2010 the Council adopted a European Action Plan to combat illegal trafficking in the so-called 'heavy' firearms. This reflects a political commitment of the MS to take operational measures to effectively fight trafficking of firearms. The EU has taken several measures to complement the work of MS in addressing the risk of criminal use of firearms.

Based on this political commitment, quite a lot has already been achieved in the last ten years. The EU has updated his legislation in this field, with the **EU Directive from 1991** that has been updated in **2008** and the rules have been tightened to some extent. This Directive required all the MS, by 2014, to create a data base on owners and transfers of legal firearms in the EU. This was on the internal market side. On the external trade side, a new EU regulation on licensing and controls with transfers of weapons in and out of the EU was adopted to improve tracing and control of civilian firearms imported into, exported from and transiting through the EU.

Furthermore, authorities in the MS have strengthened, to some extent, the practical enforcement of EU and national rules. Nevertheless, there are still improvements to be made in this regard. The fact that there are still 3 Member States who still do not require the marking of firearms is astonishing. Especially because these markings have a large impact on investigations into organized crime groups; who traffic these guns.

We can conclude that much has been achieved. However, it is crucial that the EU and his MS continue to pay the necessary attention and redouble their efforts to tackle the serious threat that the illicit trafficking of firearms and the use of explosives pose to the internal security of the EU. There is need for further action to complement this important work that already has been done at international, European and MS level; this is why we will discuss some recommendations in the next part of this toolbox.

## Part 3 Recommendations

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### Recommendations

## Introduction

As discussed in detail before, it is clear that important and several initiatives are already taken in the World, in the European Union and in the Member States in the fight against illicit trafficking of firearms. The EU has taken already numerous measures to complement the work of Member States in addressing the risk of criminal use of firearms. However, there still is a need for further action. There is no evidence that firearms cause less damage or insecurity in the EU today than last year, 5 or ten years ago. In fact, it appears to go in the opposite direction.

*“Legally owned weapons in the EU continue to feed the illegal market, powerful and highly dangerous weapons continue to be smuggled – apparently without great difficulty – over our external borders, notably from countries in the EU’s neighbourhood, where weak management of stockpiles, looting, and corruption fuel the illicit market. There is evidence that criminal groups creatively exploit new technologies, for example making and distributing weapons from spare parts bought legally on the Internet, by converting lawful air guns into more dangerous weapons, and by re-activating neutralized weapons bought both outside and inside the EU. As a result, illicit firearms are much too easily available.*

*Nor is there any sign that illicit arms trafficking is becoming any less profitable for criminal groups, who often combine it with other transnational criminal activities, such as trafficking in drugs and human beings. The Global value of the illegal trade in firearms has been estimated to between 170 million dollar and 320 million dollar per year. For the EU, we do not have any good estimates, which is in itself a challenge. We need to know more about the problem if we are to solve it.”*

**Source:** [http://europa.eu/rapid/press-release\\_SPEECH-12-841\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-12-841_en.htm)

Although there is already achieved a lot, there still can be realized a lot. In this chapter of the toolbox we will describe some recommendations. These recommendations are the result of workshop we organised with experts in July 2016.

Before we elaborate on every recommendation, we will first provide an overview of all the recommendations and its related actions.

## Overview of the proposed recommendations and its related actions

Recommendations	Actions
<b>1. Legislation:</b> a. Legal firearms possession  b. illegal firearms and explosives	<p>Stricter gun legislation → limit the availability of firearms</p> <ul style="list-style-type: none"> <li>- Restrictions on the possibility of taking firearms, which are used in a profession contact, home.</li> <li>- Strengthen the rules on the storage of guns.</li> <li>- Gun buy-back programmes.</li> <li>- Waiting periods, which can offer a 'cooling off-period'.</li> <li>- Move some types of weapons into the top category of 'prohibited firearms.'</li> <li>- The circumstances of losing a gun has to become subject of an investigation and needs to be considered when the owner wants to buy a new gun</li> </ul> <ul style="list-style-type: none"> <li>- Build a better intelligence picture on the trafficking of firearms and use of explosives and on diversion from legal markets.</li> <li>- Improve existing statistical and analytical tools at EU and national level.</li> </ul>
<b>2. Building a better intelligence picture</b>	<ul style="list-style-type: none"> <li>- A centralized database to register legally-held firearms.</li> <li>- Provide data on tracing.</li> <li>- Setting up national focal points.</li> <li>- Create a national coordination in centralizing data.</li> </ul>
<b>3. Adoption of the criminal procedures</b>	<ul style="list-style-type: none"> <li>-The adoption of the criminal procedures</li> </ul>
<b>4. Cross-border cooperation</b>	<ul style="list-style-type: none"> <li>- Increase the capabilities within the police forces in tracing firearms.</li> <li>- Collaboration and communication between teams, countries, etc.</li> </ul>
<b>5. Installation of well organised unites of well-trained qualified police and custom officers</b>	<ul style="list-style-type: none"> <li>- Qualified teams at the ground.</li> <li>- Creation of well organised and installed police cooperation between high urbanized regions and countries.</li> </ul>
<b>6. Prüm Convention</b>	<ul style="list-style-type: none"> <li>- Include weapons and arms into the Prüm-mechanism.</li> </ul>
<b>7. Third Countries: prevent the influx of firearms in the EU from outside</b>	<ul style="list-style-type: none"> <li>- Reinforce controls at the borders.</li> <li>- Integrate the illegal firearms trafficking discussion into the security dialogue.</li> <li>- A stronger cooperation with the Western Balkans and North African Countries.</li> <li>- A dialogue with the Western Balkans and North African Countries at EU and bilateral level.</li> </ul>



## Legislation

A first recommendation is to introduce stricter gun legislation.<sup>71</sup>

### Legal firearms possession

In Europe, the possession of weapons by persons is a privilege, not a right: the basic principle of the European Firearms legislation is that, due to the safety risks inherent to firearms possession, the legal possession of firearms by individuals is limited to people who have an acceptable reason for his possession, and who can demonstrate that they are responsible firearms owners who store their weapons safely.<sup>72</sup> Considered overall, the rather limited number of firearms-inflicted deaths in Europe suggest that the European legal framework for the legal possession of weapons works effectively. The majority of the holders of firearms licenses in Europe are responsible and competent weapon owners, which limits the safety risks.

However, tragic incidents happen with legally obtained firearms, which put this legislation and policy in the spotlight and demonstrates that improvements must be considered. So an option could be to **tighten controls on the acquisition and possession of weapons in the MS. The idea behind a stricter gun legislation** is that it would reduce the risk of violent death by influencing the availability of firearms. As detailed described in the first part of this toolbox, in the EU, there are approximately 79,8 million guns, owned by at least 25 million gun owners. (An average gun ownership rate of 15,7 guns/100 people in the EU) Every year, approximately 6.700 people die as a result of shot wounds. This number exist of 5.000 suicides (75%) 1.000 homicides (15%) and 700 unspecified deaths or accidents. The yearly **5.000 suicides** by firearms (usually committed with legal firearms) represent 9% of all suicides. In approximately 20% of all homicides in Europa a gun was used.

There does exist a strong positive relationship between firearms possession and the number of firearms-related deaths: in EU MS with more firearms, there are usually more deaths by firearms. In MS with lower rates of gun ownership, we will typically find fewer firearms deaths, fewer men committing suicide with a gun and fewer women being killed with a gun. This relationship is the strongest in the case of suicides committed with a firearm and less pronounced in the case of firearm homicides of women. Suicides are rather impulsive acts and especially in impulsive acts, limiting access to firearms can play an important role in delaying suicides and in impeding possible future attempts. Moreover, a significant proportion of homicides occur as a result of 'expressive violence', concretely in a domestic violence. Furthermore, it is important to mention that firearms are very deadly instruments: when one does continue with the impulsive suicide or homicide attempt, other instruments (medication, strangling, stabbing weapons, etc.) often have less lethal outcomes.

We can conclude that it really can take a difference if we **limit the availability of firearms**, to prevent impulsive suicides and homicides linked to domestic violence. For the moment,

<sup>71</sup> N. Duquet, M. Van Alstein, 'firearms and violent deaths in Europe', Brussels, Flemish PeaceInstitute, June 2015.

<sup>72</sup> N., Duquet, 'Armed to kill. An exploratory analysis of the guns used in public mass shootings in Europe', Brussels, Flemish PeaceInstitute, June 2016.

the purpose of arms legislation and other (European) policy measures is restricting access to firearms to persons who are capable of using firearms in a responsible way and keeping them in a careful and safe manner. Several relevant restrictions, such as the need to cite a good reason for possessing firearms, background checks, safe storage rules,... are therefore typically included in European firearms regulations. However, other measures can be taken to limit the misuse of firearms, such as restrictions on the possibility of taking firearms, which are used in a professional context, home can have a major impact. However, the effect of such measures is only noticeable to a certain extent by the possibility of substituting firearms for other instruments. The available research shows that in European countries where such policy initiatives have been taken, the total number of suicides and homicides in fact has dropped.

Reducing the availability of firearms can give people time to think twice in case of impulsive acts or receive help. Arms legislation can reduce the availability of firearms in case of impulsive acts. If the legal ownership of firearms to persons with a good cause and persons who are unlikely to be a danger to themselves or others would be limited, it can be assumed that this reduces the misuse of legally-held firearms. Furthermore, if the rules on the storage of guns would be strengthened, it can be assumed that this can prevent minors' access to firearms and potential fatal outcomes resulting therefrom. Gun buy-back programmes may lower the general level of firearms ownership in a country, while waiting periods can offer a 'cooling off'–period, which might avoid impulsive acts of violence. So we can conclude that **restricting the accessibility and availability of firearms** will lead to fewer gun-related deaths and will decrease the total rates of violent death. However, we have to mention that opponents of more strict legislation will argue that substitution can take place: perpetrators can and will find other weapons to commit their acts.

It is clear that gun legislation is not only about fighting trafficking illegal weapons, is it also about **controlling the legal possession and the possible illegal uses of legal weapons**. A good follow-up on this is important. Moreover, it is an option to **move some types of weapons into the top category of 'prohibited firearms'**, which could reduce the risk that these weapons find their way into our streets. There are maybe some types of weapons which should no longer be allowed for civil use.

Finally, however we started this point by telling that the possession of weapons by persons is a privilege, it is strange that the circumstances of losing your gun, never becomes the subject of an investigation or never is punished. If losing your gun happened because of your negligence, a punishment must be considered to be a possibility. Furthermore, the circumstances of losing a gun needs to be considered when the owner wants to buy a new gun. This could be included into legislation in the future.

### Restricting the access to illegal firearms and explosives

Despite the existing legislation at EU level, firearms, explosives and explosives precursors still remain too easily available. Access through illegal channels has even been facilitated by the

availability of weapons on the Internet. A comprehensive approach to support a crackdown on the illicit trafficking and use of firearms and explosives, whilst safeguarding the legal trade of firearms and of legitimate use of chemical substances, really is needed. In order to enhance and accelerate an effective law enforcement response to this threats, it is essential to build a better intelligence picture on the trafficking of firearms and the use of explosives, and on diversion from legal markets, and to improve existing statistical and analytical tools at EU and national level.

## Building a better intelligence picture

One of the major problems, as explained detailed in the first part of this toolbox, is the lack of adequate knowledge about firearms in Europe. The European Commission noted that *'a lack of solid EU-wide statistics and intelligence hampers effective policy and operational responses'*.<sup>73</sup> Therefore, one of the ambitions of the EU's firearms policy is to address the gaps in knowledge concerning gun violence. Moreover, the lack of reliable and comprehensive information on firearms in the EU is not limited to the sphere of policy-making and law enforcement. European scholarly and academic research focusing specifically on firearms availability, gun control and gun-related violence is rather rare too: the small research efforts made in this phenomenon remain fragmented and suffer from the fact that there is no integrated scholarly community dealing with gun-related issues.

The absence of evidence makes it hard and difficult for policy-makers and researchers to find impartial and unbiased answers to a lot of questions, such as *'What are the levels of firearms availability in the EU?' 'Is there a link between the levels of gun ownership in the EU and the Member States' rates of violence and violent death?' 'What is the impact of European gun laws on public safety and health?'*<sup>74</sup>

For the moment, there are ***no reliable and comparable administrative data and official figures on gun possession across Europe*** available. A lot of figures are based on the results of self-reporting surveys and expert estimates, which is important to know, because these data need to be interpreted with caution. An explanation is that not all EU MS have a centralized database to register legally-held firearms. As a positive development, Directive 2008/51/EC (see Part 2) stipulated that the MS must establish and maintain a computerized data filing system in which details of all civilian possessed firearms must be recorded and that allows designated authorities access to registered firearms. The existence of a data filing system in all the Member States would improve the authorities' chances of knowing how many and what types of firearms are legally held by EU citizens. Important to mention here is that these databases should not only look at the newly registered firearms, but to all firearms ever registered in that MS, this kind of historical data is important to get a clear picture.

It is obvious now that it is not an easy task to calculate the number of legally-held firearms in Europe. However, reliable statistics on the number of illegally-held and trafficked firearms in

<sup>73</sup> **European Commission**. 'Communication from the Commission to the Council and the European Parliament. Firearms and the internal security of the EU', COM(2013)716final, Brussels, 2013. Retrieved from: [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms/docs/1\\_en\\_act\\_part1\\_v12.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms/docs/1_en_act_part1_v12.pdf)

<sup>74</sup> **N. Duquet, M. Van Alstein**, 'Firearms and violent deaths in Europe', Brussels, Flemish PeaceInstitute, June 2015.

Europe are even harder to find. In the first place, this is the result of its covert nature of illegal possession. Secondly, it is a function of the lack of reliable and comparable estimates on illegal gun possession and trade for all the MS. The dearth of reliable data and figures becomes very plain in a recent study – where illegally-held firearms is estimated as lying somewhere between 81.000 and 67 million - commissioned by the European Commission.<sup>75</sup> Furthermore, the European Commission stated that according to SIS<sup>76</sup>, almost half a million lost or stolen firearms remain unaccounted in the EU.<sup>77</sup> Here again, we would like to refer to our earlier recommendation of some kind of warning or punishment for the owner of a gun that was stolen or lost. It should not be easy for this gun owner to get another gun.

We must conclude that, currently, it is impossible to estimate the total number of legally and illegally held firearms in Europe based on official statistics. Other and more data sources and methods are needed to estimate (legally- and illegally-held) firearms ownership rates in Europe.<sup>78</sup>

The European Commission mentioned in his communication (2015) that it is important to improve the existing statistical and analysis tools and to develop assessments at national level on movements of firearms and their availability. Furthermore, exchange at EU-level should be prioritised. Therefore, the European Commission proposed some specific actions,<sup>79</sup> including setting up some inter-connected **national focal points** by the MS on firearms to develop expertise and improve analysis and strategic reporting on illicit trafficking in firearms, notably through the combined use of both ballistic and criminal intelligence. In a regional seminar of the UNODC<sup>80</sup>, the concept for the establishment of a national unit responsible for collecting, monitoring, analyse data on seized firearms and ammunition has been explained: a mechanism as this could assist in addressing many of the challenges identified by the delegations in relation to data collection. The importance of the nomination of one official responsible to coordinate at national level the data collection efforts seems important too.<sup>81</sup> The responsibilities of these officials and the crucial role these persons have in providing statistically relevant data cannot be underestimated. There is a specific challenge to provide data on tracing, as there is no centralized process of collecting and maintaining such information. The multitude of institutions that possess data on seized firearms, such as customs, border guards, police, gendarmerie and arm forces, provokes another challenge. The high number of institutional players is a big consequence of the different mandates in dealing with various types of firearms in some EU

<sup>75</sup> **Centre for Strategy & Evaluation Services**, *Study to Support an Impact Assessment on Options for Combatting Illicit Firearms Trafficking in the European Union*, Brussels: European Commission Directorate General Home Affairs, July 2014. Retrieved from: [http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/general/docs/dg\\_home\\_-\\_illicit\\_firearms\\_trafficking\\_final\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/general/docs/dg_home_-_illicit_firearms_trafficking_final_en.pdf)

<sup>76</sup> **Schengen Information System**

<sup>77</sup> **European Commission**, Communication from the Commission to the Council and the European Parliament. *Firearms and the internal security of the EU*, COM(2013)716final, Brussels, 2013. Retrieved from: <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A52013DC0716>

<sup>78</sup> **European Commission**, Communication from the Commission to the European Parliament and the Council - *Implementing the European Agenda on Security: EU action plan against illicit trafficking in and use of firearms and explosives*, Brussels, December 2015. Retrieved from : [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-security/legislative-documents/docs/20151202\\_communication\\_firearms\\_and\\_the\\_security\\_of\\_the\\_eu\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-security/legislative-documents/docs/20151202_communication_firearms_and_the_security_of_the_eu_en.pdf)

<sup>79</sup> **European Commission**, Communication from the Commission to the European Parliament and the Council - *Implementing the European Agenda on Security: EU action plan against illicit trafficking in and use of firearms and explosives*, Brussels, December 2015. Retrieved from : [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-security/legislative-documents/docs/20151202\\_communication\\_firearms\\_and\\_the\\_security\\_of\\_the\\_eu\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-security/legislative-documents/docs/20151202_communication_firearms_and_the_security_of_the_eu_en.pdf)

<sup>80</sup> **UNODC**, *Regional seminar: strengthening the legislative and operational response against illicit trafficking in firearms*, Senegal, February 2014. Retrieved from: [https://www.unodc.org/documents/firearms-protocol/Report\\_Dakar\\_Feb\\_2014.pdf](https://www.unodc.org/documents/firearms-protocol/Report_Dakar_Feb_2014.pdf)

<sup>81</sup> **UNODC**, *Regional seminar: strengthening the legislative and operational response against illicit trafficking in firearms*, Senegal, February 2014. Retrieved from: [https://www.unodc.org/documents/firearms-protocol/Report\\_Dakar\\_Feb\\_2014.pdf](https://www.unodc.org/documents/firearms-protocol/Report_Dakar_Feb_2014.pdf)

Member States. It seems possible to create a national coordination in centralizing these data, however the need for technical assistance in terms of providing solutions for record-keeping of data on firearms needs to be emphasized.

We can conclude that it is general known that we really need a better intelligence picture. When there will be more reliable and comparable administrative data and official figures on gun possession, firearms trafficking,... across Europe, there will be more knowledge on this phenomenon. *Therefore, practitioners, academician,... will know more where the gaps are, where they can tackle this phenomenon and where they can create projects, best practices, initiatives to start the fight against illegal firearms trafficking.*

## The adoption of the criminal procedures

Another recommendation is the **adoption of the criminal procedures**. Not only the legislation has to be adapted, criminal procedures need to be adjusted too; firearms need to get a greater importance in the criminal procedures. A criminal procedure is the framework of laws and rules that govern the administration of justice in cases involving an individual who has been accused of a crime – beginning with the initial investigation of the crime and concluding either with the unconditional release of the accused by virtue of acquittal or by the imposition of a term of punishment pursuant to a conviction for the crime. These criminal procedures are the safeguards against the indiscriminate application of criminal laws and the wanton treatment of suspected criminals. Specifically, they are designed to enforce the constitutional rights of criminal suspects and defendants, beginning with initial police contact and continuing.

If these criminal procedures are not adapted, an investigation cannot happen properly. If the illegal trade of weapons is not linked to the goal of criminal procedures, an investigation cannot happen in a serious manner. The presence of an illegal or legal weapon during the criminal event should be enough ground for an investigation, for using special investigative measures,...

## Cross-border cooperation

We need to stress the importance of international and European cooperation to prevent and combat illicit trafficking in firearms. It has to be mentioned that communication and collaboration between MS does exist already. There do exist examples from successful police and judicial cooperation on firearms investigations, which result in subsequent extraditions. These examples of successful cross-border collaboration to combat illicit firearms trafficking often depend substantially on the quality of networks and contacts between particular officers and enforcement agencies. Additionally, there is often a close working relationship between senior officials in the law enforcement agencies of the different MS. However, we need to emphasize once again the need to increase the capabilities within the police forces in tracing firearms in order to be able to contribute towards the international information exchange of this data.

<sup>82</sup> **European Commission**. 'Communication from the Commission to the Council and the European Parliament. Firearms and the internal security of the EU, COM(2013)716final, Brussels, 2013. Retrieved from: [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms/docs/1\\_en\\_act\\_part1\\_v12.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms/docs/1_en_act_part1_v12.pdf)



### Examples of successful cooperation between MS to tackle cross-border firearms trafficking.

*The German customs approached the UK's Serious Organised Crime Agency (now the National Crime Agency) after detecting handguns and ammunition in a parcel destined for an address in the UK. SOCA carried out a controlled delivery of the parcel and arrested the recipient whilst upstream enquiries with German law enforcement ascertained the identity of the consignor. In addition to a cannabis charge, the recipient of the firearms was convicted on two counts of conspiracy to import firearms under and two counts of conspiracy to import ammunition. He was sentenced to a total of eight years' imprisonment (six for the firearms and 2 for the ammunition).*

*In Slovenia, the authorities have faced situations involving the transshipment of firearms from the former conflict areas in the Western Balkans to other EU Member States and where they have been asked for help in tracking down those responsible for trafficking activities. In general, cross-border collaboration works well. For example, earlier this year the Swedish police intercepted a consignment of automatic weapons that were being transported in a box that had been placed on a bus traveling from a town in Bosnia to Malmo. The consignment was not accompanied by a passenger. Investigations were undertaken at the request of the Swedish police by the Austrian, Croatian and Slovenian authorities but no clear picture emerged regarding the incident and the identity of the arms traffickers remains unknown. However, it is thought that an organised crime gang in Malmo was responsible and that they had probably asked a Bosnian citizen living in Sweden who travels home frequently to place the weapons on the bus.*

Centre for Strategy & Evaluation Services, Study to Support an Impact Assessment on Options for Combatting Illicit Firearms Trafficking in the European Union, Brussels: European Commission Directorate General Home Affairs, July 2014. Retrieved from: [http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/general/docs/dg\\_home\\_-\\_illicit\\_firearms\\_trafficking\\_final\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/general/docs/dg_home_-_illicit_firearms_trafficking_final_en.pdf)

The European Union and several EU institutions are working too to facilitate cross-border cooperation in the EU.

- ✓ Firearms and customs experts in MS and Europol devised an operational action<sup>83</sup>, including
  - **Coordinated collection and sharing of information on firearms crime** involving police, border guards and custom authorities within MS and across borders;
  - **Police control operations to tackle the principal sources and routes illegal firearms**, including the Western Balkans and assessing the risk of arms trafficking across the EU's eastern border and from North Africa;
  - **Encouraging concerted follow-up to firearms-related alerts on the second generation SIS to ensure that the number of unresolved alerts does not continue to rise;**
  - **A programme of joint police customs operations** under the direction of MS and Europol and with the participation of the Commission to identify the risk of firearms being trafficked by passenger movements across MS.

<sup>83</sup> Centre for Strategy & Evaluation Services, Study to Support an Impact Assessment on Options for Combatting Illicit Firearms Trafficking in the European Union, Brussels: European Commission Directorate General Home Affairs, July 2014. Retrieved from: [http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/general/docs/dg\\_home\\_-\\_illicit\\_firearms\\_trafficking\\_final\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/general/docs/dg_home_-_illicit_firearms_trafficking_final_en.pdf)



- ✓ The European Commission noted in his communication<sup>84</sup> several tasks to stimulate cross-border cooperation to stop illegal possession and the circulation of firearms and some tasks to build cooperation for tracing firearms used by criminals. Furthermore, the European Commission wants to *promote harmonised measures* across the EU and practices, such as the cross-border exchange of information between **national contact points** to ensure that law enforcement of all MS concerned are aware of suspicious incidents, by using an existing Europol platform such as the European Bomb Data System.<sup>85</sup> This system connects nearly all MS and can be used to exchange technical data concerning explosives and CBRN<sup>86</sup> materials, as well as incidents, trends and devices.
- ✓ The EU established the *Network of the European Firearms Experts, EFE*, working in the framework of the Law Enforcement Working Party of the EU Council. The main goal of this network is the fight against firearms trafficking and prevention of armed crimes. The EFE provides – at operational level - expertise in the field of illicit trafficking in firearms. Another goal of this network is enhancing cooperation among law enforcement institutions and other subjects of the EU Member States related to firearms, trafficking, accounting, control,... and making it more effective. EFE seeks to ensure effective fight against the trade of illegal arms. This network unites the national experts of firearms trafficking of every EU Member State. EFE is an expert, not a legislative, type of body.<sup>87</sup>
- ✓ **Europol** serves as a EU centre of law enforcement expertise. Over the years it has built up experience in fighting different phenomena, such as trafficking in arms. In 2014, Europol established a **Focal Point illicit trafficking on firearms**, to provide strategic and operational support to ongoing investigations. Its purpose is to support MS and third parties in preventing and combating the illicit activities of criminal organisations involved in illegal trafficking in firearms, including both the illicit trafficking and the illicit manufacturing. Focal Point Firearms conducts analysis on the weapons as such and on the results of the tracing. MS are encouraged to ensure that the tracing of all weapons used for criminal activities is carried out and to exchange operational information (via SIENA). **Eurojust's** competence covers the same types of crime and offences for which Europol has competence, including combatting cross-border arms trafficking. Both of these EU level organisations assist in investigations and prosecutions *at the request of a Member State*.
- ✓ **Frontex**, the European Agency for the Management of Operational Cooperation at the External Borders of the EU MS, was set up (in 2004) to reinforce and streamline cooperation between national border authorities. In pursuit of this goal, Frontex has several operational areas, (including Joint Operations Training, Strategic and Operational Risk Analyses, Research,

<sup>84</sup> **European Commission**. Communication from the Commission to the Council and the European Parliament. *Firearms and the internal security of the EU*, COM(2013)716final, Brussels, 2013. Retrieved from: [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms/docs/1\\_en\\_act\\_part1\\_v12.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms/docs/1_en_act_part1_v12.pdf)

<sup>85</sup> **European Commission**. Communication from the Commission to the European Parliament and the Council - *Implementing the European Agenda on Security: EU action plan against illicit trafficking in and use of firearms and explosives*, Brussels, December 2015. Retrieved from : [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-security/legislative-documents/docs/20151202\\_communication\\_fi-rearms\\_and\\_the\\_security\\_of\\_the\\_eu\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-security/legislative-documents/docs/20151202_communication_fi-rearms_and_the_security_of_the_eu_en.pdf)

<sup>86</sup> **CBRN** are weaponized or non-weaponized Chemical, Biological, Radiological and Nuclear materials

<sup>87</sup> **European Commission**. Commission Decision of 11.04.2013. *Setting up an expert group on measures against illicit trafficking in firearms to safeguard the EU's internal security ('the Firearms Expert Group')*, C(2013)1993 final, Brussels, 2013. Retrieved from [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms/docs/firearms\\_expert\\_group\\_setup\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms/docs/firearms_expert_group_setup_en.pdf)

providing a rapid response capability, providing an Information systems and information systems and information sharing environment,...) that are defined in the founding Frontex Regulation and a subsequent amendment. Frontex liaises closely with other EU entities, such as the **European Police College, CEPOL**.

- ✓ **CEPOL** brings together (senior) police officers from police forces in Europe to support the development of a network and encourage cross-border cooperation in the fight against crime, public security and law and order by organising training activities and research findings notably through tailored trainings aiming to disseminate good practices, enhance expertise and foster standardization of protocols facilitating police cooperation. CEPOL organises in 2016 several courses in this theme, for example, one course is organised with the purpose of enhancing cooperation in cross-border cases involving smuggling of (drugs and) firearms by using TOR networks and darknet and to harmonise investigative methods between EU and non-EU law enforcement officers, another course aims at developing the skills of the participants on the prevention of illegal use of firearms.
  
- ✓ In terms of criminal intelligence analysis, **INTERPOL** develops and disseminates research and analysis on firearm related crime trends and techniques, as well as intelligence on firearm trafficking routes and methods. INTERPOL is convinced too that national, regional and international actions to identify and eradicate firearm-related crime rely upon the prompt and timely communication of relevant information by law enforcement agencies and, in particular, effective international firearm tracing. These activities require close cooperation between a broad range of organizations such as police, customs, border protection agencies and regulatory services. Therefore, **INTERPOL facilitates international police co-operation to help MS improving their collection and analysis of the information that can be collected from inside and outside a firearm to prevent and solve firearm-related crime**.<sup>88</sup> INTERPOL offers powerful tools which can help MS to collect and analyse more effectively the information that can be obtained from inside and outside the weapon, in order to prevent and solve firearm-related crime. The INTERPOL Firearms Reference Table, **IFRT**, is an interactive online tool that provides a standardized way to identify and describe firearms, and enables an investigator to obtain or verify the details of a firearm. Nowadays, the IFRT contains more than 250,000 firearm references and 57,000 firearm images, extensive information on firearm markings (including trademarks, logos and insignias),....<sup>89</sup> Additionally, Interpol has established a *Ballistic Information Network (IBIN)*, which provides a global platform for collecting, storing, and comparing ballistic data. It is the first and only large-scale international ballistic data sharing network.<sup>90</sup> Finally, the Interpol's Illicit Arms Records and tracing Management System, **iARMS**<sup>91</sup>, exists, which is a state-of-the art tool that facilitates information exchange and investigative cooperation between law enforcement agencies in relation to the international movement of illicit firearms, as well as licit firearms that have been involved in the commission of a crime. This system is really an integral part of the international strategy and operational framework to combat the illicit trade in small arms

<sup>88</sup> More information: <http://www.interpol.int/Crime-areas/Firearms/Firearms>

<sup>89</sup> More information: <http://www.interpol.int/Crime-areas/Firearms/INTERPOL-Firearms-Reference-Table-IFRT>

<sup>90</sup> More information: <http://www.interpol.int/Crime-areas/Firearms/INTERPOL-Ballistic-Information-Network-IBIN>

<sup>91</sup> More information: <http://www.interpol.int/Crime-areas/Firearms/INTERPOL-Illicit-Arms-Records-and-tracing-Management-System-iARMS>

and light weapons. It is an information technology system which provides a common global platform for firearm-related information exchange and cooperation, namely through:

- *Providing a centralized system for the reporting and querying of lost, stolen, trafficked and smuggled firearms by law enforcement agencies globally;*
- *Facilitating the submission of, and responses to, international firearms trace requests including support to monitor the status of trace requests.*

The European Commission calls upon the MS to systematically insert information on sought firearms into the SIS<sup>92</sup> and to increase the insertion on firearms into the Europol Information System (EIS) and Interpol's iARMS, where available. Interoperability between SIS and the iARMS would highly facilitate law enforcement action, making it more effective. Interoperability between SIS and iARMS would highly facilitate law enforcement action, making it more effective.

- ✓ Furthermore, there are developments too in the field of EU judicial cooperation that could help to combat illicit firearms trafficking, including the adoption of the **European Investigation Order (EIO)**<sup>93</sup>, which replaces the existing legal framework applicable to the gathering and transfer of evidence between the MS. The adoption of Directive 2014/41/EU (14 March 2014) on the European Investigation Order was a milestone for judicial cooperation in criminal matters in the EU. The goal of this Directive is to allow an authority in one MS (the "executing authority") to carry out specific criminal investigative measures at the request of another MS (the "issuing authority") on the basis of mutual recognition. The EIO includes many significant innovations over existing procedures: Firstly, it focuses on the investigative measure to be executed, rather than on the type of evidence to be collected. Moreover, the EIO has a broad scope: all investigative measures are covered (except those explicitly excluded). Furthermore, clear time limits are provided for the recognition and, with more flexibility, for the execution of the EIO. Also, the proposal innovates by providing the legal obligation to perform the EIO with the same priority as for a similar national case. The EIO could be used by national judicial authorities in illicit firearms trafficking cases and should - in theory - ease cross-border cooperation (although it is still too early to evaluate any practical experience).

Nevertheless, collaboration and communication between teams, countries, cannot happen enough in a phenomenon's having such a 'glocal' character as the illegal trafficking of firearms.

Despite all these initiatives on EU level and the already existing cross-border cooperation between the EU MS, there still exist some problems with the cross-border collaboration. Such as the lack of information sharing between authorities, the quality of which often depends greatly on ad-hoc networks and working contacts between particular states and agencies,... Furthermore the differences in judicial procedures between the MS have to be taken in account since they can cause complications. An example: problems in obtaining the agreement of a prosecutor to allow an investigation in their country. Finally, there is the lack of expertise and

<sup>92</sup> **SIS**: Schengen Information System: the largest data exchange platform on lost and stolen firearms withing the EU and the Schengen associated countries.

<sup>93</sup> **Centre for Strategy & Evaluation Services**, *Study to Support an Impact Assessment on Options for Combatting Illicit Firearms Trafficking in the European Union*, Brussels: European Commission Directorate General Home Affairs, July 2014. Retrieved from: [http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/general/docs/dg\\_home\\_-\\_illicit\\_firearms\\_trafficking\\_final\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/general/docs/dg_home_-_illicit_firearms_trafficking_final_en.pdf)

resources available to law enforcement agencies in some MS. The need to prioritize purely domestic cases can have a negative effect.

### **The installation of well organised unites of well-trained and qualified police and custom officers.**

The EU agencies provide an overall framework for coordinating actions relating to law enforcement and customs, judicial systems and the training of police officers. However, this is just an overall framework, it is up to the MS to work with it. Despite the importance of the creation of several EU initiatives, as you could read in the previous point, the help and the well-willingness of the Member States are indispensable to succeed.

Of course, the EU recognizes the importance of the MS: within the EU policy cycle, MS and relevant EU agencies identify specific priorities in the complex area of illicit arms trafficking. Based on political guidelines, law enforcement officers can then tailor their operational work nationally, regionally and locally to address new trends in trafficking.

There is a need for teams who know and understand the problem, small unites of experts who have the possibility to investigate the cases as far as needed. Member States should **install more well organised unites of well trained, qualified, knowledgeable, experienced,... police and custom officers**, supported by members of the prosecution service – if possible. Well trained specialists, experienced in or linked to the police forces are necessary. Initiatives as, for example, the Focal Point on firearms at EU level, are a good idea, however, there is a need for some qualified teams 'at the ground'. Otherwise, this Focal Point will not serve to the utmost.

**It is important to stress in this point that there still exists a huge gap between the official policy, ideas and programs in the EU and what is really done on the ground.** There exist already numerous good initiatives; several EU organisations and some excellent initiatives have been created (see previous point 'cross-border cooperation'). Nevertheless a connection with the base, other services, etc. remains necessary. European initiatives, databases, contact points,... cannot operate sufficient if there does not exist a group of representatives of police forces, custom services, intelligence services,... at national level. Additionally, a kind of consultation mechanism where all the partners are involved are necessary. Primarily, the initiatives, possibilities and systems installed because of and in Europe or European institutions can only work when and if the MS make it work and make it possible. Europe depends on the willingness of the MS to investigate or to invest. National legislation, registration, people on the ground, consultation mechanism,... stay necessary.

Another interesting initiative could be the **creation of a well organised and installed police cooperation between high urbanised regions and countries**. The border region 'Belgium, the Netherlands and Germany' is an example of such a region. Having police officers on the ground working on the national consultation mechanism is not sufficient in these circumstances.

There is need of a more regular consultation among the qualified police officers of the several MS. It is necessary to be able to discuss what is going on. More face to face-cooperation is important. It is important to see each other, talk together, communicate face to face; therefore the police needs to make use of the existing networks. These networks need to complement the formal institutions and papers, because not everything works well only via paper. This is also a matter of trust and common sense. This point will bring us to a next point, namely the cross-border cooperation.

### Prüm Convention

Member States that belong to the Schengen area have a commitment to open borders, which makes it more difficult to control the movement of illicit firearms. However, the EU has developed in recent years a common framework consisting of risk criteria and IT systems for managing risks relating to the movement of goods crossing the EU external border as part of the commercial supply chain. The Commission has recently highlighted the challenges in risk management faced by EU customs authorities and has made several proposals for improving customs capabilities, such as a better use of information, data sources and other tools and procedures for pinpointing risks and analyzing commercial supply chain movements.

Cooperation on illicit arms trafficking is mainly based on instruments such as the Schengen Convention, the Naples II Convention and the Convention on Mutual Assistance in Criminal Matters. Information sharing instruments for MS include the Customs Information System (CIS) and the Schengen Information System (SIS) and its database on stolen firearms. These systems are not, however, specifically designed for information on illicit firearms and there is no single database for records on seized firearms unless national authorities use the iARMS INTERPOL system (there is no information about its use by MS). A possibility could be to **include 'weapons and arms' into the Prüm-mechanism**. The Prüm Convention aims to ameliorate cross-border cooperation between EU MS' police and judicial authorities to combat terrorism and cross-border crime more effectively. The provisions concern in particular the automated exchanges of information with regard to major events and for the purpose of fighting terrorism, as well as regarding other forms of cross-border police cooperation. This convention was adopted to enable the signatories to exchange data regarding DNA, fingerprints and vehicle registration of concerned persons and to cooperate against terrorism. This Convention is adopted outside the European Union framework and its mechanism of Enhanced cooperation, however asserts that it is open for accession by any MS. Like stressed before, databases are an important information source, which can be really helpful in cross-border investigations. For the moment, it is really time-consuming to find the source of the weapon, where the weapon has been produced, from which country this weapon originally comes,... If the Prüm-mechanism could be used for firearms, investigation could become much more easily: where does it come from, who bought it,... It would be a help, if such a database would exist so that investigators can gather more information about the weapon, the persons who bought it, sold it,...



For the moment, there does not exist a common standard for storing ballistic information, however this does not have to cause a problem. MS can be imposed – if they want to be a part of the Prüm-convention - to change their systems into the common standards. This has been the case already before, for example for fingerprints: MS had in the past their own system to gather fingerprints, they have common standards now to be able to exchange this information. Therefore, we dare to pose that the same can be done with ballistic information.

### Third Countries

The EU could do more efforts to prevent the influx of firearms in the EU from outside. This means that the EU should deal with this phenomenon long before it gets into the European Union.

The controls at the external borders need to be reinforced: however the sources of illicit firearms and explosives trafficking are diverse, controls at the external border and police and customs cooperation remain of paramount importance. The Member States can carry out risk-based controls on goods at the external border whether arriving in commercial traffic (e.g. containers), in passenger transport (e.g.: cars) or in passengers' luggage. The Commission proposed already to establish a Customs Priority Control Action with MS on the illicit trafficking of firearms (and - as far as possible – explosives) at the external borders. Implementation of all security-related actions foreseen in the Customs Risk Management Strategy and action plan, which will be accelerated by the Commission and MS should advance their efforts accordingly.<sup>94</sup>

Most of the attention at the external borders goes to THB, even though this is for obvious reasons an important phenomenon more attention should go to firearms. Since 2007, the seahorse<sup>95</sup> project has been build, which aims at preventing people to come to Europe. The same principle should be applied to the weapons-issue: stop the (illegal) firearms trafficking outside the European Union. This whole firearms trafficking discussion, should be a part of the THB-discussion. It is the easy access of these serious weapons and firearms, which has led to this terrible situations. It is because of these weapons that people go on the run, people get killed, etc. So we can conclude that this phenomenon is indirectly linked to the THB issue. We can conclude that the illicit trafficking and use of firearms and explosives should be systematically **integrated into the security dialogues** with key partner countries and organisations. *“These dialogues can lead to specific joint actions plans on firearms (and where possible explosives), with EU agencies such as Europol, Eurojust, CEPOL, ... and even the UN and INTERPOL. Furthermore, training and other support measures (such as the provision of relevant equipment*

<sup>94</sup> **European Commission.** *Communication from the Commission to the European Parliament and the Council. Implementing the European Agenda on Security: EU action plan against illicit trafficking in and use of firearms and explosives*, COM(2015)624 final, Brussels, 2 December 2015. Retrieved from: [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-security/legislative-documents/docs/20151202\\_communication\\_firearms\\_and\\_the\\_security\\_of\\_the\\_eu\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-security/legislative-documents/docs/20151202_communication_firearms_and_the_security_of_the_eu_en.pdf)

<sup>95</sup> Aimed to develop an effective policy to prevent illegal migration including trafficking in human beings and the smuggling of migrants. This is now the main policy of the EU: now this Seahorse project has been extended all over the Mediterranean region → Defense.



and tools) to strengthen the capacities of partner countries and relevant third countries against the illicit trafficking and use of firearms should be included in cooperation programmes at global, regional and bilateral level.”<sup>96</sup> In a Joint Communication of the European Commission<sup>97</sup> we could read that the EU will step up its cooperation with neighbouring countries on the security dimension, *including on countering the illicit trafficking in human beings, the illicit trafficking of Small Arms and Light Weapons (SALW).*

A lot of the main sources of illegal weapons come from the **Western Balkans and North African Countries**. Cooperation with these two regions is therefore important.

In the Balkans, small arms are looted from weapons depots or manufactured illegally. Some are even traded online and delivered by mail order. In November 2012, during the *EU-Western Balkans Ministerial Forum on Justice and Home Affairs*, the Ministers of the Western Balkans agreed on **a Joint Declaration on Enhancing the Fight Against Illicit Trafficking of Firearms and Ammunition in the Western Balkans**. In the Communication of the European Commission (2015), enhancing operational activities and enlarging the scope of the EU-South East Europe Action plan was proposed. Because the EU and its South East Europe partners share an interest in enhancing their cooperation against common threats, posed by the illicit trafficking of military-grade weapons and explosives. This cooperation is further developed through the adoption of **an Action Plan on the illicit trafficking of firearms between the EU and the South East Europe Region for the years 2015-2019**. Additionally, the EU is looking to set up a network of experts in North African countries, to stop arms and ammunition smuggling into Europe. This North African scheme would be modeled on the Balkan one, where emphasis is placed on modernizing law enforcement agencies, increasing mutual trust and raising awareness.

The instability in the Middle East and North African countries drastically increased the level of illicit trafficking of firearms in the region. This presents a significant long-term security threat to the European Union that really needs to be addressed urgently. There must be a stronger cooperation with this region. The EU did already start a dialogue to explore some possible future cooperation with these countries, however, this regional approach needs to be complemented at bilateral level. This can be done too by including this whole firearms-and-explosive-problem in the policy dialogues with these countries in the framework of the European Neighbourhood Policy Association Agreements and related subcommittees on Justice and Home Affairs issues and, where relevant, the specific counter-terrorism dialogues.

In addition to these two regions, it is in the interest of the European Union to enhance the cooperation with Ukraine and with Turkey against threats posed by the illicit trafficking and the use of firearms and explosives. We can state that the European Union and his MS still can do more efforts to prevent the inflow of firearms in the EU from outside.

<sup>96</sup> **European Commission**, *Communication from the Commission to the European Parliament and the Council. Implementing the European Agenda on Security: EU action plan against illicit trafficking in and use of firearms and explosives*, COM(2015)624 final, Brussels, 2 December 2015. Retrieved from: [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-security/legislative-documents/docs/20151202\\_communication\\_firearms\\_and\\_the\\_security\\_of\\_the\\_eu\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-security/legislative-documents/docs/20151202_communication_firearms_and_the_security_of_the_eu_en.pdf)

<sup>97</sup> **European Commission**, *Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Review of the European Neighbourhood Policy*, Join (2015) 50 final, Brussels, 18.11.2015. Retrieved from: [https://eeas.europa.eu/enp/documents/2015/151118\\_joint-communication\\_review-of-the-enp\\_en.pdf](https://eeas.europa.eu/enp/documents/2015/151118_joint-communication_review-of-the-enp_en.pdf)

## Conclusion

Important initiatives have already been taken in the world, the European Union and the Member States in the fight against illicit trafficking of firearms. Despite these many important measures that have been taken, there is still a lot of work to do in the fight against illicit trafficking of firearms. What keeps coming back throughout the toolbox is the lack of knowledge and data about this phenomenon. We started this toolbox mentioning that this is a real problem, therefore some attention went to this issue in this part. Furthermore we had some recommendations specific for the EU and its MS, such as a stronger legislation, a good working cross-border operation in the EU, the adoption of criminal procedures,... Finally, we mentioned several times that this phenomenon is a real global problem. Unfortunately, no region in the world is spared from the dramatic consequences of firearms violence. That is the reason why we needed to look further than just the European Union and why we had some recommendations concerning the cooperation with third countries. The revolutions in transport, communication,... have made the management of this issue at each level increasingly complex and difficult.

We can conclude that the topic of this toolbox is a very complex and difficult problem, with consequences on different levels. It is not only a problem for each region in the world, it is a problem whereby every person in various contexts (criminal, relational,...spheres) can be infected. Furthermore, the spread of SALW contributes to organized crime, the illicit firearms' trafficking cannot be seen isolated from other illegal activities, such as THB, drugs,... It is a good thing that the attention paid to the problem of the possession of illicit firearms and the illegal trafficking of firearms increased significantly at different levels, however we want to insist that it stays important to hold this focus on this phenomenon. By writing this toolbox, we hope to contribute to the better understanding of the phenomenon. Furthermore, we want to raise awareness for the importance of the prevention of illicit trafficking of weapons. Weapons are being used in a whole number of crimes, when the trafficking of weapons is hindered then the crimes which are committed with them will be hindered to.

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