

CALL FOR EVIDENCE FOR AN IMPACT ASSESSMENT

This document aims to inform the public and stakeholders on the Commission's future legislative work so they can provide feedback on the Commission's understanding of the problem and possible solutions, and give us any relevant information that they may have, including on possible impacts of the different options.

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| TITLE OF THE INITIATIVE | Firearms Trafficking |
| LEAD DG (RESPONSIBLE UNIT) | DG HOME, D2 |
| LIKELY TYPE OF INITIATIVE | Legislative (Directive) |
| INDICATIVE TIMETABLE | Q4 2025 |
| ADDITIONAL INFORMATION | https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/trafficking-firearms_en |

This document is for information purposes only. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described, including its timing, are subject to change.

A. Political context, problem definition and subsidiarity check

Political context

Depriving criminals and terrorists of the means, including firearms, to perform an attack is key in the fight against terrorism and organised crime. One of the overarching priorities of the [2020-2025 EU action plan on firearms trafficking](#)¹ is to increase pressure on criminal markets. This implies identifying possible gaps in the existing EU legislative framework/acquis on the criminalisation of firearms trafficking and assessing the need to introduce minimum criminal-law rules for, at least, the main firearms offences (illicit manufacturing and illicit trafficking of firearms, modification of markings on firearms and illegal possession of firearms).

The legal basis for introducing such minimum rules on the definition of criminal offences and sanctions in the field of firearms trafficking is Article 83 (1) TFEU. Policy-wise this is also in line with the [UN Firearms Protocol](#)². As a party to this Protocol, the EU has the obligation to ensure approximation of national criminal laws specifically related to the illicit manufacturing, trafficking and modifying of markings of firearms. Additionally, Article 9 of the UN Firearms Protocol sets forth an optional offence of illicitly reactivating deactivated firearms, and the Protocol allows for States Parties to go beyond the offences it contains by including complementary voluntary offences such as illicit brokering, arms embargo violations, illicit possession and carrying, and misconduct in the context of record-keeping and licensing³. Moreover, the Firearms Directive⁴ sets common minimum standards on the acquisition and possession of civilian firearms within the EU, defining the illicit manufacturing and trafficking of firearms, and requiring EU Member States to effectively criminalise the illegal possession of firearms. Finally, in June 2022, the Council explicitly called upon the Commission to assess the need of establishing minimum rules on offences and sanctions in the field of illegal firearms trafficking⁵.

¹ COM/2020/608 final.

² Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime.

³ Legislative guide for the implementation of the Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organized Crime

⁴ Directive (EU) 2021/555 of the European Parliament and of the Council of 24 March 2021 on control of the acquisition and possession of weapons, OJ L 115, 06/04/2021, p. 1–25.

⁵ Council Conclusions of 9 June 2022 on Protecting Europeans from Terrorism: Achievements and Next Steps, point 47 (Council doc. 9997/22).

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| <p>Problem the initiative aims to tackle</p> |
| <p>Illicit firearms feed organised crime within the EU and are regularly used by lone terrorist actors. The main supply channels for illicit firearms are described in the 2020-2025 EU action plan. Internally within the EU, supplies come from illicit manufacturing, which also includes illegal conversion of non-lethal weapons into fully functioning firearms, illicit reactivation of deactivated firearms and new technologies such as 3D printing. Furthermore, criminal organisations also use illicit transfers and/or trade between EU Member States as a source for their firearms. Illicit brokering and misconduct in the context of record-keeping and licensing are often accompanying crimes to firearms trafficking. Lastly, illegal possession of firearms, essential components and ammunition is not just a result of illicit manufacturing and trafficking of firearms but is also often a prerequisite for trafficking. Externally, the supply channels are mostly linked to illicit firearms trafficking across borders and can include violations of arms embargoes.</p> <p>Current EU legislation contains rules on the legal possession and acquisition of firearms and rules on the legal import, export and transit of firearms. However, there is no specialised EU legislation establishing EU-wide minimum rules on the definition of criminal offences and penalties on firearms-related crimes. To address the threats associated with the criminal use of firearms, robust national criminal laws are needed that allow for the prosecution and punishment of acts that infringe the Firearms Directive, the Firearms Regulation⁶ and the UN Firearms Protocol.</p> <p>In 2023/24, the Commission has conducted a study to map and compare the way firearms-related offences are criminalised in Member States. The study shows multiple inconsistencies and instances of incompleteness in the way that Member States' national laws deal with the offences mentioned in the UN Firearms Protocol. For instance, in many Member States, the definitions and classifications of the UN Firearms Protocol are not fully reflected in national criminal law. The mapping study also shows that there is a large divergence between Member States in how firearm offences are defined and sanctioned, with national penalties for firearm offences varying greatly in their severity (e.g. the maximum prison sentence for illicit firearms trafficking, by the Member States who transposed the definition, ranges from just 4 months to 15 years). This could result in enhanced criminal activities in those Member States which have lower sentences. Additionally, at present, no Member State specifically criminalises the illicit manufacturing of firearms by means of 3D printing or the creation, possession and dissemination of the intellectual materials (blueprints) needed for 3D printing.</p> <p>The inconsistent and incomplete criminal law situation in the EU regarding firearms-related offences could potentially harm cross-border operational cooperation between law enforcement authorities and between prosecutors. In particular, the inconsistencies and gaps between Member States' criminal laws provide opportunities for criminals to hide behind borders or to take advantage of the differences for their criminal operations.</p> |
| <p>Basis for EU action (legal basis and subsidiarity check)</p> |
| <p>Legal basis</p> |
| <p>Article 83 (1) of the Treaty on the Functioning of the EU (TFEU) explicitly lists illicit arms trafficking as a particular serious crime with cross-border dimension on which the EU has the power to enact Directives with common minimum criminal rules.</p> |
| <p>Practical need for EU action</p> |
| <p>The criminalisation of firearms-related offences is a competence that the EU shares with the Member States. Article 83 (1) of the TFEU states that the European Parliament and Council may establish minimum rules concerning the definition of criminal offences and sanctions in relation to particularly serious crime with a cross-border dimension resulting from the nature of impact of such offences or from a special need to combat them on a common basis. The Treaty includes illicit arms trafficking as such an offence. In Addition, the EU also has the obligation to ensure approximation of national criminal laws specifically related to the firearms offences set out in Article 5 of the UN Firearms Protocol.</p> <p>The mapping study referred to above reveals many inconsistencies and instances of incompleteness in the way these offences are put into national law. Firearms crimes, especially illicit firearms trafficking and illicit manufacturing, take place in a cross-border context. EU-wide cooperation is thus crucial to tackle this cross-border</p> |

⁶ REGULATION (EU) No 258/2012 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition, OJ L 94 30/03/2012, p. 1-15

dimension as part of preventing and combating firearms offences. For efficient judicial action and law enforcement between Member States, harmonised rules are needed on the definitions, classifications and penalties of firearm offences. A minimum level of harmonisation is also needed to create a level playing field between national criminal rules. The current lack of a level playing field can be exploited by criminals.

B. Objectives and policy options

The general objective of this initiative is to increase the level of security in Europe by increasing pressure on criminal firearms markets through robust criminal legislation, via the adoption of a Directive. This will reduce the risk of firearms being used for terrorism and organised crime. The Commission intends to examine a preliminary set of policy options that will be subject to changes depending on the outcomes of the impact assessment and stakeholder consultations.

Baseline scenario

If no EU action is taken, criminal law on firearm offences in the EU would remain inconsistent and incomplete. Moreover, current arrangements do not take account of new developments in the 3D printing of firearms. Judicial and law enforcement authorities would still lack effective means to tackle cross-border criminal markets in illegal firearms. This will increase the risk of these firearms being used for terrorism and crime.

Option 1: non-legislative measures and enhancing enforcement.

The first option would entail non-legislative measures in the form of a Commission recommendation paper, together with reinforcing monitoring and enforcement of the Firearms Directive and the UN Firearms Protocol. Through this recommendation, the Commission could raise awareness of the lack of harmonisation of penalties which could lead to criminals exploiting these, and to the lack of attention to 3D printing, and suggestion measures. Moreover reinforcing the monitoring and enforcement of the Firearms Directive and the UN Firearms Protocol, could contribute to addressing some challenges such as the lack of criminalisation in some Member States.

Option 2: legislative proposal on the 'core' firearms offences

The second option would entail a legislative proposal for a directive harmonising the definitions and classification of the core firearm offences, and of sanctions/penalties, in line with the UN Firearms Protocol and the Firearms Directive. These core firearms offences are illegal manufacturing (which should include a focus on 3D printing), illegal firearms trafficking, illegal possession and modifications of markings on firearms. This option would ensure the EU and Member States fulfil their international obligations and solve problems arising from a lack of harmonisation.

Option 3: legislative proposal on a wider set of firearms-related offences

The third option would entail a legislative proposal for a directive harmonising the definitions and classifications of a wider set of firearms-related offences, and of sanctions/penalties related to these. Next to the core firearms offences described in option 2, the UN Firearms Protocol also allows, and actually recommends, that States Parties go beyond the mandatory offences by including complementary optional and voluntary offences such as illicit reactivation of deactivated weapons, illicit brokering, arms embargo violations, illicit possession and carrying, and misconduct in the context of record-keeping and licensing. Including all firearms-related offences could lead to an optimisation of law enforcement cooperation and prosecution.

C. Likely impacts

EU harmonisation of the criminalisation of firearms offences will put pressure only on illegal markets. The legal market, involving authorised firearm users and authorised firearms dealers and brokers, will not be affected. Harmonisation would have positive social and economic effects as it would likely reduce costs resulting from terrorist and criminal use of firearms, including the costs associated with: (i) deaths and injuries; (ii) an increased sense of insecurity in society; (iii) disruption to business and services; and (iv) mobilisation of first responders and other public services.

D. Better regulation instruments

Impact assessment

An impact assessment will be conducted to support the drafting of this initiative and to inform the Commission's proposal. It will specify the link between this initiative and existing EU legislation on firearms, such as the Firearms Directive and the Regulation on import and export and transit of firearms for civilian use. The impact assessment will pay attention to simplifications in proceedings and focus on keeping the creation of potential new administrative burdens to a minimum. The Commission will aim to complete the impact assessment in the second quarter of 2025.

Consultation strategy

The Commission will consult as widely as possible to gather key information and ensure that the general public

interest in the EU is well reflected in the proposal on the criminalisation of firearms-related offences. Targeted stakeholder consultations and a public consultation are planned for this initiative.

Among the key stakeholder groups to be consulted are: (i) experts from the United Nations Office on Drugs and Crime (UNODC), as this initiative will implement Article 5 of the UN Firearms Protocol; (ii) national experts in the field of firearms, such as law enforcement agencies and prosecutors. For the latter the Commission plans to organise a specific session on criminalisation with the Member States in the Expert Group on Firearms. Additionally, the Commission will organise informal meetings with practitioners to look at case studies and good practices and to analyse needs in greater depth.

The Commission will simultaneously launch the call for evidence and the public consultation. The public consultation will be online on the Have your Say page and will be open for 12 weeks. The public questionnaire will be available in all EU languages. Responses to the public consultation can be submitted in any of the 24 official EU languages.

A factual summary report of the contributions to the public consultation will be published on the consultation page 8 weeks after the public consultation closes. A synopsis report, summarising all consultation activities, will be made available as an annex to the impact assessment.

Why we are consulting?

The consultation will aim to gather views on: (i) better describing the problem(s); (ii) alternative ways of harmonising the criminalisation of firearms-related offences; (iii) the scope for harmonising national rules criminalising firearms-related offences; and (iv) the possible pros and cons of a new legislative framework.

Target audience

The main stakeholders identified are: (i) law-enforcement authorities and customs authorities; (ii) judicial authorities and prosecutors; (iii) other authorities in the field of firearms policy, including ministries of the interior and ballistic expertise centres; (iv) legal firearms users and owners (hunters, sport shooters and collectors); (v) economical operators such as dealers and brokers (manufacturers, traders etc.); and (vi) international organisations and non-governmental organisations in the field of firearms policy.