Marketing and use of explosives precursors

2018/0103(COD) - 11/07/2019 - Final act

PURPOSE: to limit public access to explosive precursors.

LEGISLATIVE ACT: Regulation (EU) 2019/1148 of the European Parliament and of the Council on the marketing and use of explosives precursors, amending Regulation (EC) No 1907/2006 and repealing Regulation (EU) No 98/2013.

CONTENT: this Regulation establishes harmonised rules concerning the making available, introduction, possession and use of substances or mixtures that could be misused for the illicit manufacture of explosives, with a view to limiting the availability of those substances or mixtures to members of the general public, and with a view to ensuring the appropriate reporting of suspicious transactions throughout the supply chain.

The objective is to prevent the illicit manufacture of explosives, taking into account the changing threat that terrorism and other serious criminal activities pose to public security.

Availability, introduction, possession and use

Restricted explosives precursors shall not be made available to, or introduced, possessed or used by members of the general public. The restriction also applies to mixtures containing chlorates or perchlorates listed in Annex I (restricted explosive precursors), where the overall concentration of those substances in the mixture exceeds certain limit values expressed as a percentage by weight (w/w).

Licenses

Subject to the conditions laid down in the Regulation, each Member State which issues licences to members of the general public who have a legitimate interest in acquiring, introducing, possessing or using restricted explosives precursors shall lay down rules for issuing licences.

When considering whether to issue a licence, the competent authority of the Member State shall take into account all relevant circumstances, in particular:

- the demonstrable need for the restricted explosives precursor and the legitimacy of its intended use;

- the availability of the restricted explosives precursor at lower concentrations or alternative substances with a similar effect;

- the background of the applicant, including information on previous criminal convictions of the applicant anywhere within the Union.

A Member State may recognise licences issued by other Member States.

Reporting of suspicious transactions, disappearances and thefts

The Regulation requires economic operators but also online marketplaces to report suspicious transactions.

Each Member State shall set up one or more national contact points with a clearly identified telephone number and e-mail address, web form or any other effective tool for the reporting of suspicious

transactions and significant disappearances and thefts. The national contact points shall be available 24 hours a day, seven days a week.

Economic operators and online marketplaces may refuse the suspicious transaction. They shall report the suspicious transaction or attempted suspicious transaction within 24 hours of considering that it is suspicious.

Informing the supply chain

The Regulation obliges the economic operators who makes available a regulated explosives precursor to another economic operator to inform that economic operator that the acquisition, introduction, possession or use of that regulated explosives precursor by members of the general public is subject to reporting obligations regarding suspicious transactions, disappearances and thefts.

Verification upon sale

The economic operator who makes available a restricted explosives precursor to a professional user or another economic operator shall for each transaction request the following information:

- proof of identity of the individual entitled to represent the prospective customer;

- the trade, business, or profession together with the company name, address and the value added tax identification number or any other relevant company registration number, if any, of the prospective customer;

- the intended use of the restricted explosives precursors by the prospective customer.

Economic operators shall retain this information for 18 months from the date of transaction.

The information must not be requested if such verification for that prospective customer has already occurred within a period of one year prior to the date of that transaction and the transaction does not significantly deviate from previous transactions.

For the purpose of verifying the intended use of the restricted explosives precursor, the economic operator shall assess whether the intended use is consistent with the trade, business or profession of the prospective customer. The economic operator may refuse the transaction if it has reasonable grounds for doubting the legitimacy of the intended use of the restricted explosives precursor. The economic operator shall report such transactions or such attempted transactions.

Training and awareness-raising

The new Regulation imposes a number of training and awareness obligations on (i) economic operators who manufacture or sell explosive precursors; and (ii) national control authorities.

Member States shall organise, at least once a year, awareness-raising actions adapted to the specificities of each of the different sectors using regulated explosives precursors. Economic operators shall be responsible for providing information to their personnel on the manner in which explosives precursors are to be made available and for raising personnel awareness in this regard.

Member States may request additional specific training from the European Union Police Training Agency (CEPOL).

The Commission shall provide regularly updated guidelines to assist actors in the chemical supply chain and the competent authorities, and to facilitate cooperation between the competent authorities and economic operators.

ENTRY INTO FORCE: 31.7.2019.

APPLICATION: from 1.2.2021.