

## **To what extent there is scope for a common EU policy of firearms controls?**

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### **Abstract:**

The illicit manufacturing and trafficking of firearms used in criminal activities is a major concern because of the political, social and economic damage it causes to communities. The possession of small arms and 'heavy' firearms, which could be used within organised crime groups, as well as lower-level street gangs, continues to rise in many parts of the European Union. Thus, the impact and success of gun control legislation continues to demand the attention of academics and policymakers alike. Despite a considerable amount of literature about gun crime, there is a lack of understanding surrounding the market in illegal firearms and the trafficking of firearms. This paper presents an overview of a research project that explores the extent of firearm control within the European Union, and the barriers to consensus in firearm law.

**Key words:** Firearms/gun-crime; control; consensus; trafficking.

### **Research aims**

This paper presents an outline of a research project that aims to explore the extent of firearm control and the barriers to consensus upon firearm law within the European Union (EU). The research will explore the scale of firearm misuse, crime and weapon trafficking, and

domestic and national firearms laws and regulations, before soliciting the views and interests of stakeholders (gun controllers and enforcers) to ascertain what factors influence the future direction of EU firearms policy and what the barriers to consensus are.

Drawing on previous literature, the proposed research will provide an overview of European society gun control profiles and construct a typology of different societies and gun cultures. The proposed work aims to establish the emerging firearms law development agenda in Europe, within a broader social, political and security context.

## **Introduction**

There are in excess of 875 million firearms in the world today, of which 75% are owned by individuals, and an estimated 360,000 people are killed with firearms in non-conflict situations each year (World Health Organisation, 2010: 64). Around eight million small arms are manufactured each year, with over 1,200 companies operating in over 90 countries. This plethora of sources is reflected in the firearms that are recovered (Association of Chief Police Officers, 2007). For example, shotguns and assault-rifles produced by the Italian company Beretta and AK-47 assault rifles produced by Russian company Izhmash. The illicit manufacturing and trafficking of firearms used in criminal activities is a major concern because of the political, social and economic damage it causes to communities (Council of the European Union, 2013). The damage, whether direct or indirect, is significant. The direct impact includes the number of deaths by firearm and any injuries sustained, within the EU alone this stands at 10,000 in the last decade, and this does not include suicides by firearm, which total over 4,000 each year (United Nations Office on Drugs and Crime (UNODC), 2011). Indirectly, the impact is vast but unquantifiable (UNODC, 2011). However, it would include the diminishment of quality of life of the individual and the community; and increased perceptions of threat and the associated trauma (Muggah, 2001).

A wide variety of gangs operate throughout the UK and the EU with many methods of obtaining, storing, sharing and using firearms (Serious Organised Crime Agency (SOCA), 2013). The elimination of internal borders within the Schengen area and the subsequent ease with which crime can, and indeed has, spread has increased the need for a more coordinated system of cooperation with regard to criminal justice agencies, the police and related

administrative matters (European Commission, 2015: 11). The recent terrorist shootings in Paris, Copenhagen and Tunisia raise questions about the trafficking of weapons throughout Europe; and the possession of small arms, and 'heavy' firearms; for example, AK-47s or rocket launchers, which could be used within terrorist cells, organised crime groups, as well as lower-level street gangs, in many parts of the European Union.

## **Background**

Gun crime is defined by the Metropolitan Police (2012) as any offence that involves "the use or threat of a firearm of any description in the commission of offences within the following categories; murder, assault, sexual offences, harassment, robbery, burglary, theft and handling stolen goods". "Firearms are taken to be involved in a crime if they are fired, used as a blunt instrument against a person, or used as a threat" (Kaiza, 2008: 35). There are also varying definitions of what actually counts as 'use' of a firearm. For example, when an air weapon (a weapon that compresses air or gas through a cylinder to expel a projectile) is fired, and there is either some form of damage or injury; that is classified as 'misused'. Handguns on the other hand are 'misused' during the course of a "robbery when they are brandished to intimidate a victim and when they are discharged" (Squires, et al., 2008: 10).

Firearm crime statistics predominantly focus upon crime committed with firearms (except the theft of firearms); there is seldom any information about the following matters: offences that result from the breach of firearms control laws (adaption, possession and trafficking etc.) and the way in which firearms fall into the hands of potential offenders (ibid: 20).

There are also a number of caveats that must be considered. Policing activity and priorities affect the levels of reported and recorded violent crime; most crimes go unreported to the police, undoubtedly due to the fact that the majority of gun crime involves individuals, and all too frequently gangs involved in criminality, armed robberies and drug distribution and they are therefore unlikely to report incidences (Hales, et al., 2006).

There are also definitional issues; the Home Office dataset only record crimes where a firearm was used, rather than offences where a firearm is present, or they may not be recorded at all due to a lack of evidence. In terms of issues in under-reporting of violent

crime, the definition of gun crime influences patterns of crime recording (Squires, et al., 2008).

There is a considerable amount of literature about gun crime, particularly USA-based, and a growing body of international evidence now points towards a clear correlation between firearms and gun crime, violence, homicide and suicide rates (Bangalore and Messerli, 2013; Van Kesteren, 2014). The relationships that exist between guns and violent crime is intensely debated (Alzheimer, 2010) and the debate has been longstanding, with proponents of gun control and gun rights fiercely clinging to studies that support their side of the argument and either ignoring or questioning the other side (Chambliss, 2011).

However, scholarly enquiry into gun crime and gun control and empirical evidence concerning the impact of firearms legislation is limited and, indeed, far from conclusive (ibid). Despite trafficking in illicit firearms being on the political agenda of the EU for over a decade (European Parliament, 2013), qualitative evidence or ethnographic research on gun crime is limited (Campbell, 2010). Similarly, there is also limited research available on firearm smuggling within the EU, and a significant proportion of gun involved victimisation continues to go unreported (Squires, 2008: 2014). Thus, the impact and success of gun control legislation continues to demand the attention of academics and policymakers alike and there is need for more research into the European firearms situation (Duquet and Van Alstein, 2014). Such demand has governed the core aims of this research.

In terms of policy interventions, two recent studies (European Commission, 2014a; 2014b) examined policy options, to assist with the detection, prevention, and prosecution of those involved in firearms offences, specifically focusing on the fight against illicit arms trafficking in the EU. It was found that Europe faces a serious illicit firearms trafficking problem that has far-reaching consequences, as discussed later.

The world's crime figures are collected by the United Nations Office on Drugs and Crime (UNODC) and they gather their data from multiple sources. Member States submit information via the Annual Report Questionnaire and the Crime Trend Survey, and other national surveys are produced in cooperation with national governments, or compiled from scientific literature (UNODC, 2013). Data are collated on firearm homicides with details of size of population, and whilst these data are comprehensive, there are nonetheless limitations; there is data missing for Belgium, Estonia, France and Greece, and some nations

(although not EU) are missing. The Small Arms Survey is also useful; it collates civilian gun ownership rates for 178 countries around the world.

Although statistics are used to generate an idea of the extent of crime, and specifically in this case, gun crime, it is apparent that these do not present the most reliable picture of crime rates and there are significant limitations. The British police record 4-5 million crimes annually, yet British Crime Survey evidence suggests a figure of closer to 11-12 million, although there are still significant gaps in the BCS (ACPO, 2007). The Home Office publishes the only national statistics on gun crime available in England and Wales and their statistics on recorded crimes involving firearms are considered the most important national source (Hales et al., 2006). However, there is limited information available on how these statistics are generated and what they include, and subsequently their strengths and limitations. Despite the highly complex, and at times partial picture they present, they are nonetheless treated uncritically both in the UK and internationally (ibid: 1). While open sources of information can provide a general overview of the major legal arms transfers they are not sufficient to establish a comprehensive and applicable overview with functional statistics about the flow of firearms to and within regions. This then hinders the effective investigation and prosecution of those involved (UNODC, 2013).

There are also differences between countries in terms of criminal justice and legal systems: definitions, methods of reporting, recording and counting crimes, which makes direct comparisons difficult (Tavares et al., 2012: 2). Furthermore, criminal statistics record offences involving the 'criminal use of a firearm' rather than simple offences of illegal firearm possession (Squires, et al., 2008: 7). There are also ambiguities in the interpretation of firearm 'use' – it is these deficiencies in the definition and recording of offences that undoubtedly contribute to the gaps in intelligence. This allows for muddled debates, and hence problems with clearly formed crime prevention strategies (ibid: 16).

Statistics on the availability of illicit firearms are hard to come by (European Parliament, 2013) and precise levels of gun crime may be masked from official statistics for many reasons. Despite the increasingly restrictive legislation, crimes involving firearms continue to occur (Hales et al., 2006). EUROPOL (2013) following their Serious and Organised Crime Threat Assessment (SOCTA), argue that their data do not indicate an increase in the trafficking of heavy firearms. Nonetheless, there were in excess of 5,000

murders committed with firearms in the EU in 2012 and no EU country is unaffected by firearms violence (European Commission, 2013). Firearms continue to be a common denominator in all kinds of serious and organised crime (European Parliament, 2013). Organised Criminal Gangs/Groups (OCG) are behind a multi-million-pound business smuggling drugs and guns, and the Balkans have become a gateway to Europe for organised criminals.

In Greece, there are an estimated 1.5 – 2 million hunting guns in circulation yet only 300,000 individuals with a hunting licence (Ta Nea 2008, cited in Arsovska & Kostakos, 2008). Relatively little is known about the illegal markets and organised crime, despite the funding and abundance of programmes, initiatives and organisations in the area (Antonopoulos, 2008: 315; Arsovska & Kostakos, 2008: 353). Similar to other countries, most of what is known in Greece is influenced by official discourse and ideologies, and there is a lack of serious research or empirical evidence. Moreover, as is often the case, what information there may be about the actual amount of organised crime is fragmentary or largely unavailable to researchers (Antonopoulos, 2008). This is a result of it being immersed in technical or political issues, and an inability or unwillingness of the state, or international agencies, to cooperate (ibid). There is undoubtedly a need for further research to be conducted, in order to identify the threat that is posed by organised crime and the illicit trafficking of arms, and to ensure that appropriate collaboration strategies are in place to combat it, particularly in relation to the specific risks that are inherent in EU expansion (Davis et al., 2001: 7).

The nature of organised crime results in a 'dark figure' and under-reporting, leading to a lack of functional and meaningful data (Antonopoulos 2008: 320). This is especially problematic given the unwillingness and inability of state and international agencies; and the distinct nature of illegal markets needs to be acknowledged and taken into account by the academic community (ibid: 323). The scale of trafficking in illicit firearms remains variable throughout the EU, as does the nature of illicit firearms trafficking with firearms originating from outside the EU and from EU Member States; firearms trafficking therefore continues to be considered a constant threat (EUROPOL, 2005). It was predicted in 2000, by the British National Criminal Intelligence Service (NCIS), that law enforcement would see an increase in the use of firearms among organised criminals (Arsovska & Kostakos, 2008). The

possession of firearms by members of OCG and lower-level street gangs has indeed continued to rise, yet the nature of the situation regarding local demand, internal circulation and importation represents a significant intelligence gap (EUROPOL, 2010). It is these significant gaps in information provided by several states, and the lack of transparency, that hinder the investigation making a cross analysis of 'mirror' data almost impossible (UNODC, 2013).

Duquet and Van Alstein (2012; 2014) acknowledge the lack of data on civilian firearm possession, with numbers frequently estimated and the methods applied to arrive at the estimates remaining unclear. Historically in many EU states previous record keeping has been inadequate, with issues with documenting and definitions, although recently member states have begun to establish electronic firearms registers. Belgium has an advantage in terms of their Central Weapons Registry, although there are also limitations with this. For example, according to these sources, 21% of legally acquired guns had not been recorded, and 30% of the records contained errors (Duquet and Van Alstein, 2012). Nonetheless, a more unified approach to the recording/registration of firearms would go some way to addressing this. This is why recent research conducted by Duquet and Van Alstein (2014), regarding the reform of gun control laws in Belgium, is not only timely but provides an excellent model from which further assessments of firearm law might develop.

## **Discussion**

Europe presents a number of anomalies with regard to the study of conflict, violence and civilian firearm ownership and there is need for a more coherent and evidence-based approach to the regulation of firearms. Illicit firearms trafficking is an issue in its own right, contributing to criminal activities such as drug smuggling and terrorist-related activities. However, it also contributes to the level of criminal violence by increasing the number of firearms that are available (European Commission, 2014a).

The reason for these anomalies is not hard to see. For although many European societies often fall towards the lower end of a range of societies in terms of their levels of ownership and rates of firearm involved violence, a number of European societies, for example: Scandinavian countries, Switzerland and Austria, also have relatively high rates

(globally) of civilian firearm ownership. Which therefore represent what might be considered a more 'civilised' gun culture (Kopel, 1992; Munday, 1996), as compared to those considered less civilised. It is important to note, however, that within many of these societies, the rate of firearm suicide exceeds the rate of firearm homicide (Squires, 2014). In such societies, firearm ownership mainly comprises shotguns and rifles, and these guns are predominantly employed in sports shooting, field sports and agriculture. There is relatively limited ownership of handguns for purposes of personal protection (although this may be changing) even though many (although certainly not all) European countries' firearms regulations specifically prohibit this (Squires, 2000).

On the other hand, many of these so-called 'civilised' gun cultures have also experienced what are sometimes seen as mass, rampage or spree homicides. The UK has experienced three such events since 1987, Germany two, Finland two, Switzerland three, Belgium one, and France two (Squires, 2014). Norway can lay claim to the dubious distinction of having witnessed the world's most lethal firearms rampage however, when Anders Breivik shot and killed over 70 young people at a youth camp outside Oslo in 2011 (Aylward, 2012). In many countries incidents such as these have prompted the authorities (backed by an outraged public opinion) to embark upon substantial firearms control reforms (such as the UK in 1996, Australia in 1996 and Belgium in 2006). Interest in firearms legislation from the media and general public is frequently sporadic and incident-driven however (Duquet and Van Alstein, 2014). Most societies have not tended to enact such substantial changes, perhaps regarding these events as rare anomalies or as 'tragedy' events unrelated to broader patterns of crime. Notwithstanding such variation, it might be possible to regard progressive reform – tightening – of firearms control laws as an aspect of the 'civilisation thesis' (Elias, 1982; Pinker, 2011) albeit a rather 'Euro-centric' version.

Firearms ownership is relatively low in most EU Member states, compared to many parts of the world (European Commission, 2013). EU Member states have low rates of gun-involved crime but have many of the elements that have (historically) tended to inflate rates of firearm violence. Europe is home to a wide variety of small arms manufacturers that can truly be said to have armed the world, (especially via their former 'empires', commonwealths and geo-political alliances, from the early 19<sup>th</sup> century to the post-Cold War era, and especially, too, if one includes former Soviet bloc countries which played their part in the



distribution of the AK47). The UK in 2013 was the second largest arms-selling country in the world (Fleurant & Perlo-Freeman, 2013). In other countries (USA, Brazil) a manufacturing base has often served as a key foundation of a society's gun lobby. Even so, no European culture can claim a gun lobby of anything similar to the scale, significance and influence of the US National Rifle Association (NRA). Support, however, is growing for a 'European' lobby group. Warsaw based Firearms United, with partnerships/branches across Europe is aiming to unite all gun owners and to bring about a change in legislation in order to make society 'feel free and safe' (Firearms United, 2015). Nonetheless, in comparison to the NRA, lobby groups elsewhere are rather less prominent, potentially because in European countries gun control does not rank particularly high on the political and public agenda (Duquet and Van Alstein, 2014). That is until, of course, there is a public incident of gun violence that receives media attention and causes public outrage; thus prompting politicians to consider implementing stricter regulations in terms of the possession and use of firearms by private citizens (ibid). Such actions are typically endorsed by groups in Europe such as the Flemish Peace Institute and the Stockholm International Peace Research Institute (SIPRI).

Many commentators (for example, Bellesiles, 2000) refer to the significance of war (in the US case, the American Civil War 1861-65) and conflict in establishing gun control, or gun rights (or gun cultures) by fostering the spirit of militarism and disseminating unchecked supplies of firearms. The European mainland has certainly seen its share of wars during the past 200 years. It is, of course, important to acknowledge, as American Criminologist Elliott Currie has noted, that "the role of guns in violent crime cannot be considered in isolation from other conditions that influence the likelihood of violence, such as the degree of inequality, the depth of social exclusion, and the erosion of family and community supports" (2005: 106-7). It follows that it would be inappropriate to focus exclusively on firearms alone when seeking to understand rates of crime and firearm involved violence. Therefore, the research will explore debates concerning social order and the role of culture, and how embedded and socially meaningful firearms are (Greene and Marsh, 2012).

Police, politicians and the media reports describe the emergence of a gun culture (Hales et al., 2006: vii), and gun crime as becoming prominent and omnipresent features of Western European capitals. Hales et al., (ibid: xiii) found that, in terms of gangs and gun

culture, Merton's "Innovation" mode of adaptation is frequently interpreted as a response by individuals to structural strain (Einstadter and Henry, 2006: 166) and used to explain how economic hardship is reconciled by some through involvement with criminal activities. Illegal drug markets also significantly underpin the criminal economy, representing the most important theme in terms of the illegal use of firearms (Hales et al., 2006: 65).

Taken together, it is clear that a wide range of post-war/post-conflict factors: social, political and cultural solidarities, the role of law and, especially since the 1970s, the increasing role of the EU, have played their part in restraining firearm proliferation and enhancing police and security co-operation to prevent widespread firearms trafficking in the European region (Spapens, 2007). At the European Union level, acquisition, ownership and possession of firearms are governed by two directives agreed in 1991 and revised in 2008 (Directive 91/477/EEC and Directive 2008/51/EC). In simple terms, the Directives establish minimum requirements, and these regulations are intended to control access to, and possession of, weapons, to facilitate the flow of firearms in a single market, and to bring within the realm of EU law the United Nations Protocol against the Illicit Manufacturing and Trafficking of Firearms.

## **Methodology**

In order to understand the gun control landscape, in terms of legislation, it is necessary to conduct an extensive review of legislation and practice across Europe. This will establish areas of national convergence and divergence, and ascertain obstacles to consensus (the politics and impediments to harmonisation of laws, identifying areas of agreement and disagreement) as they stand now and how these differences are accounted for. It is now necessary to establish the factual behaviour of the member states, against rules set out in the directives, to estimate the degree of compliance (Crowley & Persbo, 2006).

Due to the complexity of gun crime and indeed governmentality across Europe, the research will need to be carried out at several different levels. Developing understanding beyond governmental level, the work must be broad enough to include law enforcement community perspectives and a variety of European gun control lobby organisations, acknowledging the influence that they have on policy in each of the member states.

Therefore, part of the legislation review process will involve the identification of key stakeholders in both the law enforcement community and the gun control lobby. For example; in Brussels, the Flemish Peace Institute, in Oslo, Peace Research Institute Oslo (PRIO), and representatives/researchers from the Small Arms Survey working in Europe. Further participants may also be identified by way of 'snowball' sampling.

Once participants have been identified, data will be gathered by way of semi-structured interviews, with those from the Pro-control/anti-control/law and enforcement community experts. The questions will be developed during the course of the literature review, but will seek to establish the perspectives of those involved in the research. The research will follow an interpretive/exploratory approach, as it is concerned with generating theory, also associated with grounded theory (Davies, 2006: 110-111). It will be a long-term iterative process, that allows theory to come through the writing. The research process is often referred to in stages; collecting the data, analysing the data and then writing up the data. This is a rather linear and, according to Butler-Kisber (2010: 30), a false depiction of what is a complex and iterative process. Analysis will occur from the outset; it is what the researcher brings to the research, what is paid attention to during the interviews and how the interviews are constructed (ibid). Working with the interview transcripts is part of the analysis, just as the writing-up phase is (Ely et al., 1997). The process of reading through and interpreting the data will continue throughout the project; this will allow theoretical insight to emerge whilst the researchers engage with the data that has been collected, something Parlett and Hamilton (1976) call 'progressive focussing'.

## **Conclusion**

The damage caused by firearms is a major concern for the world, and the nature of the situation regarding local demand, internal circulation and importation represents a significant intelligence gap in our knowledge-base (EUROPOL, 2010). Further, analysis of firearm data is frequently hindered by a lack of transparency and the gaps in information provided by several states (UNODC, 2013).

The elimination of internal borders within the Schengen area and the subsequent ease with which crime can, and indeed has, spread has increased the need for a more

coordinated system of cooperation with regard to criminal justice agencies, the police and related administrative matters (European Commission, 2015: 11). This is particularly so in terms of the strengths and weaknesses in cross-border sharing of law enforcement information (ibid). Thus, the impact and success of gun control legislation continues to demand the attention of academics and policymakers alike and there is a need for more research into the European firearms market and use (Duquet and Van Alstein, 2014).

Based upon the literature discussed, this research project aims to explore the extent of firearm control within the EU, and the barriers associated with developing a consensus in firearms law. This research project aims to address the lack of scholarly inquiry and empirical research and to explore the diversity and variety of firearms laws, controls and regimes within the EU. The extent of gun crime, weapon trafficking and breach of firearms regulations will also be evaluated. This work will establish if there are any gaps in knowledge, and provide an overview of European Society gun control profiles, while constructing a typology of different societies and gun cultures, for example civilised or less civilised (Kopel, 1992: Munday, 1996). This will identify areas of convergence and divergence and address issues in terms of differences in how firearm violence and firearm crimes are monitored, defined, counted and recorded within the EU. The project will, therefore, support a more coordinated system of cooperation with regards to law enforcement and criminal justice agencies, and explore to what extent there is scope for a common EU policy of firearms controls?

The research will make a cross-analysis of mirror data significantly more realistic and will strengthen cross-border sharing of law enforcement information and assist with forming collaboration strategies. When supplemented with the views and interests of stakeholders (gun controllers and enforcers) the research will ascertain what the barriers to consensus are and what factors influence the future direction of EU firearms policy.

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