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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**on the exercise of the delegation conferred on the Commission pursuant to
Regulation (EU) 2019/1148 of the European Parliament and the Council on the
marketing and use of explosives precursors, amending Regulation (EC) No 1907/2006
and repealing Regulation (EU) No 98/2013**

1. INTRODUCTION

Regulation (EU) 2019/1148 on the marketing and use of explosives precursors (hereafter ‘the 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 ensuring the appropriate reporting of suspicious transactions throughout the supply chain. The Regulation’s controls and restrictions apply to the substances listed in its Annexes and to mixtures and substances containing them.

Pursuant to Article 15 of the Regulation, the Commission is empowered to adopt delegated acts amending the Regulation by: (a) modifying the limit values in Annex I to the extent necessary to accommodate developments in the misuse of substances as explosives precursors, or on the basis of research and testing; (b) adding substances to Annex II, where necessary to accommodate developments in the misuse of substances as explosives precursors.

The Standing Committee on Precursors, an expert group chaired by the Commission and composed of representatives of Member States and industry associations, assists the Commission in its work to facilitate and monitor the implementation of Regulation (EU) 2019/1148.

The Regulation is a key instrument in the fight against terrorism and crime in the European Union as it prevents terrorists or criminals from acquiring explosives precursors which could be used to produce ‘Home Made Explosives’ (HMEs). In several terrorist attacks in the EU, including those in Paris in 2015, Brussels in 2016, Manchester and Parsons Green in 2017 and Lyon in 2019, terrorists used such HMEs.

2. LEGAL BASIS

The present report is required by Article 16(2) of the Regulation. Pursuant to this provision, the power to adopt delegated acts is conferred on the Commission for a period of five years from 31 July 2019. Moreover, the Commission is required to draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period, which is 31 October 2023.

The delegation of power shall be tacitly extended for periods of an identical duration unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. EXERCISE OF THE DELEGATION

During the period covered by this report - i.e. from 31 July 2019 until 31 October 2023 - the Commission has not exercised its power in accordance with Article 15 of the Regulation to adopt delegated acts to modify the limit values of the substances in Annex I or to add substances to Annex II of the Regulation.

However, the threat posed by HMEs remains high and continues to evolve. This is systematically confirmed in Europol’s annual EU Terrorism Situation and Trend Report

(TE-SAT) which provides an overview of the terrorism phenomenon in the EU in a given year¹.

The Standing Committee on Precursors is therefore constantly following developments concerning the possible misuse of new substances, or new concentrations or mixtures of them, as explosives precursors on the basis of input from the experts of the EU Member States, Europol or other law enforcement authorities. During the period covered by this report, some new substances have been considered for possible inclusion into the Annexes of the Regulation. However, during the reporting period it was never considered necessary to accommodate developments in the misuse of substances as explosives precursors and proceed with a proposal for a delegated regulation to modify the limit values of the substances in Annex I or to add substances to Annex II of the Regulation.

Additionally, it should be noted that the Commission exercised its power to adopt delegated acts in 2016 to add three substances to Annex II, namely aluminium powder, magnesium nitrate hexahydrate and magnesium powder. At that time, Regulation (EU) No 98/2013 on the marketing and use of explosives precursors was applicable, which was the predecessor of Regulation (EU) 2019/1148 on the marketing and use of explosives precursors.

4. CONCLUSION

The Commission is of the view that the power to adopt delegated acts conferred on it by the Regulation should be tacitly extended for a period of five years, in accordance with Article 16(2) of the Regulation.

¹2022 European Union Terrorism Situation and Trend Report (TE-SAT) which states that “*Home-made explosives (HME) remain the preferred weapon for jihadist terrorists. While the use of TATP has continued to decrease, a continuing increasing trend of manufacturing homemade low explosives mixed from acquired explosives precursors (e.g. potassium nitrate, aluminium powder, sulphur, ammonium nitrate) has been noted in 2021. Instructions published and shared via encrypted communication platforms mostly incited and suggested the use of HME, readily available pyrotechnics and rudimentary ‘pipe bomb’ types of IEDs*”.