**KNIFE LEGISLATION AND HANDLING AT AIRPORTS**

**IN**

**BELGIUM**

# Weapons Act

*1.1 Which knives are considered weapons under your local law?*

In Belgium, the rules about the use and the sale of weapons are mainly established by the (amended) law of 8 June 2006 "houdende rege/ing van economische en individue/e activiteiten met wapens" (in short: "Wapenwet" or Belgian Weapon Act).

This law distinguishes three different categories of weapons:

1. prohibited weapons;
2. weapons subject to an authorisation;
3. freely available weapons.

Currently, not one type of knife is classified in the category of the weapons subject to an authorisation. These are mainly guns.

The following types of knives fall into the category of the prohibited weapons (article 3, §1 of the Belgian Weapon Act): (1) automatic jump (stiletto) and gravity knives with lock, (2) butterfly knives (balisongs), (3) bladed weapons that externally resemble other objects (e.g. knives hidden in a pen or a belt), (4) throwing knives and throwing stars.

All other so called "blanke wapens" (= 'bladed weapons') that are not explicitly described in the category 'prohibited weapons', fall into the category of the freely available weapons, of which the possession is allowed, but which can only be carried in public in case of a "legitimate reason" (see next question below).

The question is of course whether all types of knives which aren't explicitly prohibited will fall by nature into this category of the bladed weapons.

In article 2, 13° of the Belgian Weapon Act "blank wapen" (= 'bladed weapon') is defined as: "any weapon having one or more blades that have one or more cuts". lt is therefore crucial to know what is considered as a weapon. However, the term 'weapon' remains undefined in the Belgian Weapon Act. lt is therefore unclear whether all knives, given the inherent danger, should be seen as weapons or whether only cutting objects intentionally designed as weapons (namely to kill or wound) are meant.

In the preparatory parliamentary documents that preceded the Belgian Weapon Act, the legislator seems to have wanted to explicitly exclude "simple hause, garden and kitchen knives, including Swiss pocket knives, and other innocent utensils". However, in a later explanatory circular the Ministry of Justice explicitly stated that all types of knives that are not prohibited must be considered bladed weapons.

As a result of this lack of clarity, the case law on this subject is very diverse and contradictory. Certain courts and public prosecutors took the position that all knives are bladed weapons and therefore prosecuted people for carrying a Swiss pocket knife in public without any legitimate reason. Other courts / public prosecutors on the other hand were of the opinion that such knives should be seen as utensils and not as weapons. In that case, carrying a Swiss pocket knife or a folding knife was only prohibited to the extent the person who carried it was intended to use it to wound or threaten people (previous article 3, §1, 17°, now article 19, 7° of the Belgian Weapon Act).

Recently (2018) the Belgian Weapon Act was slightly amended. The Weapon Act now also prohibits the carrying of any sharp or cutting objects which are not designed as weapons, but from which is clear that the bearer, given the circumstances, wishes to use them in order wound or threaten people. Furthermore, (non-adapted) objects which are not designed and intended as weapons, but are carried with the intention to wound or threaten people, are no langer prohibited weapons. Merely carrying objects with that intention is now forbidden.

Although the preparatory parliamentary document of this amendment are (again) not very clear towards this matter, the legislator seems to reaffirm that only knives which are intentionally designed to kill or wound human beings or animals, such as daggers, hunting knives or diver knives, have to be considered by nature as bladed weapons.

Also recent legal doctrine has construed this amendment as a proof that knives which clearly aren't designed as objects to kill or wound human beings or animals (such as kitchen knives and camper knives) fall out the scope of the definition of bladed weapons.

However, we are not aware of any recent case law of the Belgian courts of appeal on this topic. Therefore, despite the preparatory parliamentary documents and recent doctrine, it remains uncertain whether or not the interpretation of the term 'bladed weapons' will be restricted by the case law to knives intentionally designed to kill or wound human beings or animals.

Conclusion:

lt remains unclear whether all knives should be considered by nature as weapons under Belgian legislation.

Knives which are explicitly forbidden under article 3, §1 of the Belgian Weapon Act or which are designed and intended as weapons definitely have to be considered as weapons.

However, we cannot ensure for 100% that this also is the case for "simple hause, garden and kitchen knives, including Swiss pocket knives (locked or not), and other innocent utensils".

*1.2 Is there a legal requirement to have a legitimate/justifiable reason for carrying and/or transporting a knife in the public? If so, for what kind of knives (lock knife, folding knife [depending on a special blade length or not?], fixed knife or any knife)?*

The types of knives that are prohibited according to article 3, §1 of the Belgian Weapon Act (see first question above) are obviously not permitted in any circumstances. Manufacturing, repairing, selling, transferring or transporting, storing, holding and carrying these kinds of knives are all strictly forbidden according to article 8 of the Belgian Weapon Act.

Carrying knives that qualify as bladed weapons according to article 3, §2 of the Belgian Weapon Act (whose scope is thus uncertain, see first question above) is only permitted if one can prove to have a "legitimate reason" for doing so. What is considered as a legitimate reason is not specified in the legislation and must therefore be evaluated on a case-by-case basis.

Carrying or transporting any other sharp or cutting object other than weapons that fall under one of the above mentioned categories is only prohibited to the extent that, given the concrete circumstances, it is clear that the person carrying or transporting this object intends to use it to wound or threaten people (article 19, 7° of the Belgian Weapon Act).

*1.3 How must these concerned knives of point 1.2 be carried or transported in the public (e.g. in a closed or locked container)?*

There are no specifications in which way (non-prohibited) knives must be carried or transported. The executive regulations that provide additional security measures are only applicable to guns subject to authorisation.

For the prohibited types of knives according to article 3, §1 of the Belgian Weapon Act, it is of course always prohibited to carry or transport them.

*1.4 Are there any public places which may be restricted by an authority (on certain days or at certain times) for carrying any knives or other dangerous tools (e.g. railway station, airport, market places, football stadium, event halls etc.)?*

Of course, in-hause policies of for example football stadiums, event halls, transportation companies, may provide rules prohibiting certain objects. By purchasing a ticket, one agrees to comply with these rules.

Moreover, in such places, there is, according to the case law, often no legitimate reason to carry a bladed weapon. Also other sharp and cutting objects are considered not to belang in such places, which means that it will be more likely that these objects are carried with the intend to wound or threaten people with it.

In addition, local authorities are empowered to impose measures in order to protect the public order and public safety in public places and public events (article 135 "Gemeentewet" or law on municipalities). They cannot deviate from federal legislation, but they can forbid certain objects which may disrupt the public order and the public safety.

*1.5 How is the blade length measured (only the cutting blade or including the blade shank)?*



Since the blade length of a knife is irrelevant in order for it to be permitted or allowed under Belgian law, there are no provisions in the Belgian Weapon Act that specify how a blade length should be measured.

*1.6 Are there any further dangerous objects which also fall under the Weapons Act?*

As mentioned above, carrying or transporting sharp, cutting or blunt objects and substances that are not intentionally designed as weapons, but for which, given the concrete circumstances, it is clear that the person carrying or transporting them intends to use them to wound or threaten people is forbidden according to article 19, 7° of the Belgian Weapon Act.

All kinds of objects and substances ·not designed as weapons, but which have been transformed, modified or mingled to be used as weapons and for which, given the concrete circumstances, it is clear that the person holding, carrying or transporting it intends to use them to wound or threaten people are even considered prohibited weapons according to article 3, §1, 17 of the Belgian Weapon Acts. This means that, according to article 8 of the Belgian Weapon Act, such adapted objects may not be manufactured, repaired, sold, transferred, transported, stored, held or carried at all.

*1.7 Are there any exceptions?*

Article 27 of the Belgian Weapon Act determines which categories of people, entities or activities are exempted from the abovementioned legislation.

The Act does not apply to:

* orders for the State or public administrations and public museums (with some exceptions);
* in-and expert for military use or law enforcement;
* officials of the public authority and the public power, who carry or hold a weapon during or for service which is part of their prescribed equipment.

For these exempted categories, the prohibited weapons listed in article 3, §1 of the Belgian Weapons Act can only be obtained, held and transferred by authorized weapon dealers.

Certain prohibited weapons (certain guns and military weapons) can only be manufactured, repaired, sold, imported, stored and transported by authorized weapon manufacturers.

Authorized collectors and museums may also obtain and hold these certain types of prohibited weapons under the condition that they are irreversibly neutralized or the firing pin has been removed. Also automatic jump (stiletto) and gravity knives with lock, throwing knives and throwing stars can be held, obtained and imported by authorized collectors, under the condition that these knives are kept in accordance with the provisions applicable to guns.

Also licensed sport shooters can obtain, possess and transfer some prohibited guns in certain circumstances. Only authorized weapon dealers can obtain, possess and transfer these guns for them.

*1.8 What are the consequences for a legal offense?*

In case of a legal offense or attempts to commit legal offenses, article 23 of the Belgian Weapons Act provides a prison sentence from one month to five years and/or a fine of 800 to 200.000,00 EUR. However, these sentences can always be reduced by the court in case of mitigating circumstances.

The weapon or object can additionally be confiscated and destructed.

In case of repeated offenses, the business of authorized dealers and brokers can be (temporarily or permanently) shut down.

Violations of municipal regulations (see above under question 1.4) can be punished with administrative fines.

*1.9 Are there any legislative developments? If so what do they concern?*

As far as we know, there are no upcoming changes in the legislation concerning knives.

# Airports

* 1. *According to the Official Journal of the European Union laying down detailed measures for the implementation of the common basic standards in aviation security, any pointed or sharp objects which may cause serious injury, including a knife with a blade more than 6cm are not allowed to be taken into the security restricted areas or on board of an aircraft.* 
     1. *Are there any further national regulations to be considered in this respect?*

There is no stricter Belgian legislation regarding pointed and sharp objects in security restricted areas an on aircrafts.

The Belgian Weapon Act will of course remain applicable on Belgian territory (see above).

* + 1. *If your country is outside the EU, what are the corresponding local regulations?*

N/A

* 1. *May the airports/airlines in your country issue any further (stricter) regulations for forbidden items?*

We are not aware of any law or regulation that would prohibit this.

* 1. *May a pair of scissors or a saw be included in a pocket knife with a blade of max. 6cm? If so, is the size of the pair of scissors or the length of the saw of relevance?*

According to Regulation 2015/1998, attachment 4-C, scissors with blades of more than 6 cm, as measured from the fulcrum, and saws are not allowed to be carried into security restricted areas and on board of an aircraft. For saws, no length restrictions are foreseen. Consequently, any saw, regardless of its length, is not allowed in the cabin baggage.

However, also if the blades of the knives and scissors are shorter than 6 cm, it cannot be guaranteed that these pocket knives will not be taken away at the security check. The list provided under attachment 4-C, c) is not exhaustive and only exemplary. lf the security considers the pocket knife to be an object with a sharp point or sharp edge capable of being used to cause serious injury, it can be taken.

Pocket knives are allowed in hold baggage.

* 1. *What is considered as a sharp object besides knives?*

Any object with a sharp point or sharp edge capable of being used to cause serious injury is not allowed in the cabin baggage.

The examples given in attachment 4-C to Regulation 2015/1998, that will always be withheld at the security check are:

* items designed for chopping, such as axes, hatchets and cleavers;
* ice axes and ice picks;
* razor blades;
* box cutters;
* knives with blades of more than 6 cm;
* scissors with blades of more than 6 cm as measured from the fulcrum; martial arts equipment with a sharp point or sharp edge;
* swords and sabres.
  1. *Are there any further aviation security regulations with respect to the Victorinox (pocket) knives to be observed?*

We cannot think of any other further aviation security regulations with respect to the Victorinox pocket knives to be observed.

* 1. *Are th**ere any changes intended in the near future? If so what do they concern?*

We are not aware of any intended changes in the Regulation in the near future.

Ibach, Switzerland, 23 June 2021

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