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WORKING DOCUMENT

on the control of the acquisition and possession of weapons

Committee on the Internal Market and Consumer Protection

Rapporteur: Vicky Ford

1. Introduction

This document is a discussion paper to enable the Rapporteur to start preparing draft amendments to the Commission proposal.

It is important to recognise that the vast majority of owners of firearms in the EU do not present any danger to the public. Any changes to the 1991 Directive must be necessary, proportionate and targeted. The absence of an impact assessment is problematic since it is unclear which problems have been identified and what the evidence is for how they should best be addressed.

Although the use of legally acquired firearms by criminals and terrorists is limited, there have been recorded cases. For example, a type of firearm used in the Charlie Hebdo attacks in Paris had been legally purchased in one Member State (MS) after conversion into a "blank-firing" acoustic firearm, which under the law of that MS before it was recently amended, did not require authorisation. It was then converted back into a live prohibited firearm.

It is clear that many stakeholders are concerned about the lack of clarity of some of the proposal and possible consequences for legal owners.

Any changes to the Directive must therefore balance the right to ownership of certain types of firearms with controls appropriate to the risk presented. This approach should take different forms. More precise criteria could assist free movement by further clarifying the controls applicable and reducing national differences. Clarifying requirements such as those needed for authorisation, for example on secure storage and museums, could ease free movement of licit firearms by approximating to the degree necessary the safety requirements across MS, increasing trust by reducing discrepancies between national laws. In so doing, the risk of legally acquired firearms being sold into the black market could be lessened.

However, in addition, the Commission adopted a Deactivation Regulation on the same day as its launch of the review of the Directive. Concerns have been expressed by stakeholders from many MS that the new Regulation may make it harder for law enforcement bodies to know if a firearm has been properly deactivated.

The Rapporteur seeks your views on the following issues:

2. Characteristics v. appearance

The proposal includes replicas/imitations in category C and continued control of deactivated firearms. That (and the proposed move of category B7 to A7) touches on the appearance of an object, not its characteristics.

The Directive defines and controls "essential components". This could provide a basis for an approach based on technical characteristics instead of appearance.

The Rapporteur welcomes your views on the following:

- i. exclude from scope firearms, including in category A, deactivated under the new Deactivation Regulation or alternative prior deactivation standard which has rendered

the firearm irreversibly inoperable¹ (except for continued registration of an already registered firearm after its deactivation, for tracing purposes). This would remove the proposed category A8 and C6 in Annex I,

- ii. exclude from scope other objects which do not contain any essential component which can also be used in a firearm,
- iii. keep in scope objects which have an essential component,
- iv. clarify that essential components are included in the highest category of firearm on which they are intended to be mounted,
- v. clarify which components are "essential", regarding the proposal to add additional items to the list (e.g. silencers).

The above approach would specify the current text of Art 1 and the proposal on replicas (1h) could be dropped.

However, it may have an impact on certain objects such as airguns and airsoft, which might require clarification. The Rapporteur is interested in your suggestions.

3. Blank firing weapons (alarm/signal/salute/acoustic)

Defective implementation by some MS of the Directive has led to demonstrated problems particularly relating to the use of reconverted blank firing weapons.

As amended in 2008, Art 1 of the Directive means that an object which has been converted to fire blanks remains a firearm if it can be converted back. The Directive also provides that objects designed for alarm, signalling etc. are excluded if they “can be used for the stated purpose only”. In the Rapporteur's view this should already cover the situation. The Commission proposes to clarify primarily by introducing three new definitions, each of which could be discussed, and by including alarm/signal/salute/acoustic weapons as well as replicas in category C, regardless of their technical characteristics.

The Rapporteur believes there may be a simpler approach and welcomes views on the following:

- i. firearms converted to firing blanks remain in their original categories, and
- ii. objects originally manufactured to fire blanks, meeting requirements to be laid down by the Commission by a set date, remain outside scope.

In addition, as outlined in 2 above, any other objects containing an essential component could be placed in the category for the firearm on which the component could be mounted. This might remove a need for definitions of alarm, signal, salute or acoustic weapons.

4. Art 2(2), Art 6 authorisation, category A-B

The Commission proposes to move category B7 to A7, to delete the possibility in Art 6 for MS to grant category A authorisations in special cases, and to require all category A firearms are destroyed (save for "authorised bodies concerned with historical and cultural aspects",

¹ See 9 below

under extremely limited circumstances).

Under the current wording of the Directive, despite category A being described as “prohibited”, firearms listed in both category A and B are allowed, subject to authorisation, either under Art 6 (category A) or Art 5 and 7 (category B). Art 2(2), which states that the Directive does not apply to the armed forces, police etc., is also of relevance in this context.

Based on the discussion in the EP so far, and as she understands the situation in Council, the Rapporteur takes it that the proposal in this respect has little realistic prospect of approval.

The Rapporteur has considered the option to include all semi-automatics in category A unless they are included in category B or C. However she believes that this approach is unworkable.

Therefore, the Rapporteur would invite your views on the following alternatives:

4.1 to revert to the existing legislation,

or

4.2 to consider a package of

- i. clarifying in Art 2(2) that “armed forces” cover the defence forces as defined under MS law with all units and persons under their command, including, where relevant, the home guard, reservists etc. if authorised or obliged to acquire or possess category A firearms,
- ii. maintaining the possibility for MS to grant authorisations also for category A in special cases, while clarifying possibly that with examples of types of persons which could be considered for authorisations (via an open list), and a further description in a recital of the nature of associated stringent requirements,
- iii. ensuring that shortening a firearm (making it more easily concealable) is considered manufacturing, and therefore illicit unless done by an authorised dealer, and
- iv. rejecting the proposed move of category B7 to A7 (as B7 requires authorisation in any event).

4.3 Alternative wording for A7

The Rapporteur has considered a number of options, but has not yet been able to identify a viable alternative allowing e.g. to specifically identify a particular type of semi-automatic firearm by way of unique technical characteristics.

However, she would appreciate views on inserting one or more of the following options to replace the A7 text of the proposal:

- i. "firearms and ammunition specially designed for military use" (cf Art 3(b) of Regulation 258/2012),
- ii. "centrefire semi-automatic rifled long firearms specially designed for military use",

- iii. "Semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms except in the case of firearms for hunting or for target shooting, for persons entitled to use them",
- iv. "semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms, except where specially designed for hunting or target shooting",
- v. "semi-automatic long firearms for civilian use which have or can be equipped with a firing capacity exceeding 6 rounds without reloading, or which otherwise are constructed in a way that they are more appropriate for combat than for hunting".

A number of the above options are quite broad and would require clarification which firearms are not intended to be included, e.g. rimfire, .22 calibre. The Rapporteur is interested in drafting suggestions.

A further option could be to reinstate category B7 (rejecting the proposal to move it to A), plus possibly some higher standards related to authorisations for B7 e.g. regarding ammunition, training or storage.

In addition, the Rapporteur invites your views with respect to the possibilities of introducing more stringent requirements for certain cases, including large capacity magazines, see below.

5. Authorisation requirements

5.1 The proposal includes "authorised bodies concerned with historical and cultural aspects" under the scope of the Directive (while granting a possibility to keep any category A firearms already held provided they are deactivated).

Deactivating historical collections would result in considerable costs and permanent damage to historical artefacts and it is important for museums to be able to add to their collections. The Rapporteur invites your views on:

- i. clarifying the position of museums to enable them to hold category A firearms provided they have MS authorisation and that storage measures are in place to address risks to public safety and security,
- ii. whether this should be done as per the current text of the Directive by continuing to exclude museums (recognised by MS) from scope, or via Article 6.

In the current Directive, the word "collector" is used but not defined. The Commission proposes removing all exemptions for them. The Rapporteur is interested in your views on whether MS should continue to be able to exempt collectors in specific circumstances and if there should be any differentiation between "authorised bodies" and "collectors".

With respect to all persons, the Rapporteur invites your views on whether:

- iii. controls on large capacity magazines would contribute to public safety, e.g. by permitting them only for recognised target shooting organisations, on condition that the magazines are kept by those organisations and only possessed under their control on their ranges,

- iv. to introduce minimum requirements for safe storage of firearms (as 20 MS already have) and whether such storage requirements should correspond to the level of risk or danger posed.

5.2 The proposal changes Art 5 to ban the acquisition of firearms for persons under 18 through inheritance or gift (purchase is already banned). The Rapporteur invites your views on whether to retain the possibility for persons under 18 to acquire firearms other than through purchase.

In addition, “standard medical tests” for the issuing or renewal of authorisations are proposed, and a five-year limit for the duration of an authorisation.

The Rapporteur invites views on whether:

- i. to replace the proposal by a system allowing MS to choose to implement either periodic medical and psychological review or a continuous monitoring system,
- ii. to clarify the language of “standard medical tests” or reject it, and if rejected,
- iii. to develop the requirement in Art 7 for periodic verification by requiring MS to implement continuous monitoring to ensure that the conditions under which an authorisation was granted continue to apply.

Aspects MS could consider for a system of monitoring include appropriate medical and psychological testing, time-limited licenses, in particular for certain categories of firearms, verification of the continued need for possessing a firearm and continued practice in its use etc.

6. Distance sales

The proposal bans distance sales, other than between dealers and brokers.

Your views are invited on the following approach: To allow the use of distance communications while requiring that the actual handing over is done under conditions allowing for verifying the identity and authorisation of the buyer, for instance in the premises of a dealer, at the local police station or some other body authorised under MS law.

This would be in line with the distinction in Art 11 between mail order sales and the subsequent transfer of a firearm. Suggestions specific to remote areas would also be welcome.

7. Ammunition

The Rapporteur invites your views on whether to:

- i. introduce a possibility for dealers and brokers to refuse suspicious transactions (e.g. involving quantities unusual for private use) and an obligation to report attempted such transactions,
- ii. clarify that only ammunition for the specific firearm/s held can be acquired.

8. The European Firearms Pass (EFP)

The December 2014 evaluation report identifies some areas where the functioning of the EFP

could be improved. They include the number of firearms MS enter on the EFP, the possibility for an EFP holder to acquire ammunition in the MS of destination, the possibility for MS to require additional authorisations for entry, and widely varying fees for EFP issuance, unrelated to the actual costs of processing an application or later changes to and renewals of the EFP.

The Rapporteur invites your views also on this aspect.

9. The Commission Deactivation Regulation

The Rapporteur proposes to address what appear to be certain discrepancies between the Deactivation Regulation and the Directive, including to align the record-keeping obligation under the Regulation with the Directive.

In addition, the Rapporteur has been made aware of other issues, in particular the practical impossibility of re-deactivating some already deactivated firearms, the possibility that at least some existing national deactivation standards and procedures are at least as effective as the Regulation and that permanently welding together certain parts as required by the Regulation may make it more difficult to inspect that deactivation has actually taken place. She invites your views on the following:

- i. obliging the Commission to review the Regulation as a whole immediately on adoption of the amended Directive, and
- ii. the possibility of introducing under Art 10b a way to acknowledge the equivalence of deactivations performed prior to the entry into force of the Regulation, on condition that they were done pursuant to recognised alternative national deactivation standards and procedures resulting in at least the same outcome of irreversible inoperability.