

ASSOCIATION OF MALTESE ARMS COLLECTORS & SHOOTERS

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Affiliations: Federation of Arms Collectors and Target Shooters (FACTS); Federation of European Societies of Arms Collectors (FESAC); International Practical Shooting Confederation (IPSC); International Metallic Silhouette Shooting Union (IMSSU); Association Européenne De Tir Sur Silhouettes Métalliques (AETSM); World Field Target Federation (WFTF); Muzzle Loaders Association of Great Britain (MLAGB); World Crossbow Shooting Association (WCSA); World Forum on the Future of Sports Shooting Activities (WFSA); Malta Aviation Museum Foundation (MAMF);

The Revision of the EU Firearms Directive Status report compiled by the President and Secretary 14 February, 2017

HISTORY

On 18th November 2015, the European Commission published a proposal to revise Directive 91/477/EEC on the control of the acquisition and possession of weapons, better known as the "Firearms Directive," which was last modified in 2008. The proposed changes had been a work in progress since 2012, led by the "Firearms Task Force" headed by Fabio Marini. The stated aim was to control the illicit trafficking of arms that feeds criminal and terrorist activities. The proposals were issued within five days of the deadly Paris attacks, and this was an argument to support their incompleteness, and the stated urgency for their immediate approval.

The original proposals included the following reasoned measures, which were drawn up in consultation with stake holders:

1. EU common rules on marking of firearms to improve the traceability of weapons;
2. Better exchange of information between Member States, for example on any refusal of authorisation to own a firearm decided by another national authority, and obligation to interconnect national registers of weapons;
3. Common criteria concerning alarm weapons (e.g. distress flares and starter pistols) in order to prevent their transformation into fully functioning firearms;
4. Stricter conditions for the circulation of deactivated firearms.

However, the proposals included measures which were not reasonable, were not supported by any evidence or impact assessment, and were not founded on any recommendation emerging from the professional assessment of the current directive. These included:

1. A ban on semi-automatic firearms which resemble automatic or military firearms, meaning that ***all Category B7 firearms would have to be deactivated or destroyed;***
2. The inclusion in the Firearms Directive of all collectors and museums, which are currently exempt and subject only to national regulation;
3. ***A total ban on all automatic firearms,*** which would not, under any circumstance, be allowed to be held by private persons or museums, ***even if they had been permanently deactivated;***
4. ***A ban on the online acquisition of firearms, key parts or ammunition through the Internet;***

The impact of these proposals would have been enormous. When one considers that there are an estimated 18 million civilian firearms authorised for hunting, sports shooting and collection purposes in the European Union, the financial impact of the proposals on Member States would have been astronomical. Furthermore, the Commission's original departure from its own Better Regulation Guidelines, not least in the lack of any form of impact assessment of the proposals, its aversion to effective consultation with industry and sports experts and its inexplicable resistance to genuine constructive criticism resulted in major technical flaws in

the proposal. The original reports recommending a review of the firearms directive, as summarised by the European Parliamentary Research Service, recommended only that:

1. with respect to the alleged danger of conversion of automatic firearms to semi-automatics, and vice-versa, an ***in-depth analysis needs to be conducted*** and then the European Commission may evaluate a revision of the rules for ownership, acquisition and transfer of such firearms
2. with respect to on-line sales of firearms and their parts, ***non-legislative recommendations to strengthen knowledge on new technologies should be made***

The omission of any evidence to support the proposals was a major flaw. On the other hand, there is much available evidence to show that strict restrictions on the use of firearms for good cause are completely ineffective in preventing crime. As demonstrated at the joint AMACS-AACTS Firearms conference in January 2017, the evidence can be summarised as such:

1. ***The total rate of gun-related deaths*** (including accidents, some of which may be misclassified suicides) ***estimated from World Health Organisation data is about 6,700 deaths per annum in the European Union***, with a significant downward trend of 20% in the period between 2000 and 2012;
2. ***The vast majority of firearms-related deaths are suicides and only about 15% of firearms-related deaths are homicides.***
3. ***Firearms are used in only about 20% of homicides, and handguns are more often used than rifles or shotguns. Unfortunately there is little information of the proportion of illegal firearms used in such homicides***, but available research indicates that the majority of homicides are conducted with illegal firearms;
4. There is ***no consistent association between gun ownership and total suicide rates across countries.*** The availability of a firearm thus seems to increase the risk of a firearm being used to complete a suicide, but there is no consistent evidence that limiting such access has an effect on total suicide rates;
5. There is ***no significant association between gun ownership rates and overall national suicide and homicide rates.*** It therefore follows that ***lower rates of firearm ownership does not systematically translate into lower levels of violent deaths. A number of studies analysed the effect of the strict firearm restrictions imposed in Australia in 1996, and most found no significant positive effect on firearm-related fatalities, total homicide and suicide rates.***
6. In the United Kingdom, where very strict firearms regulations were implemented in 1996, Home Office Research Study 298 of 2006 reported on page 6 that ***the rates of firearm offences roughly doubled in the decade after the introduction of the new law,***
7. The number of ***illegal firearms in Europe is unknown, but is estimated to run into tens of millions.***
8. ***There are approximately 25 million gun owners and 79.8 million legal firearms in the European Union.*** One-third of firearm ownership is for professional use (police, army and security services), 23% for sports and only 5% of firearms are owned for collection purposes. Rates of gun ownership show a decreasing trend over time.

The solid arguments put forward by organisations such as the Foundation for European Societies of Arms Collectors (FESAC), the European Sports Shooting Forum (ESSF) and its member organisations, the International Practical Shooting Confederation (IPSC), the European Federation of Associations for Hunting & Conservation (FACE), the newly formed grassroots movements Firearms United, as well as innumerable private individuals and reasonable MEPs, as well as National Governments, provided a barrage of criticism which the European Commission tried to ignore.

However, the European Parliament was listening carefully. In fact, many EU Commission proposals did not receive the support of European Parliament committees responsible for processing them as well as of the Council of Ministers.

TIMELINE OF SIGNIFICANT STEPS

18 November 2015 – European Commission

DG Growth, which is responsible for the Firearms Directive published its proposal for a revision of the Firearms Directive. The disproportionate measures, misleadingly packaged as an urgent response to the threat of terrorism, included outright bans on private possession of all automatic firearms and semi-automatic rifles that 'resemble' military firearms. They also included stringent rules on distance sales of firearms, essential components and ammunition, medical checks, secure storage and a host of other attempts squarely aimed at owners and users of legally-held firearms. The outcome would have been the irreversible damage and destruction of all historic automatic firearms held in museums and private collections, the confiscation of personal property and the eradication of the most popular sport shooting disciplines. The Commission expected to steamroll its proposal through the legislative procedure riding on the wave of emotion following the Paris attacks. However it misjudged the resolve with which stakeholder representatives came together to resist its fierce attack on civil liberties. Moreover the extreme nature of the proposal gave birth to the wide popularity of Firearms United, a grassroots movement which has been instrumental in derailing the Commission's objectives.

9 May 2016 – European Parliament Civil Liberties, Justice and Home Affairs Committee (LIBE)

LIBE MEPs voted on the proposal tabled by Rapporteur Bodil Valero (Greens). The result was a rejection of most of the Commission proposals as well as of the even more stringent measures introduced by the Rapporteur. This was the most significant and determined action in favour of legal firearm owners and users.

24 May 2016 – European Parliament Legal Affairs Committee (JURI)

The Rapporteur for subsidiarity, MEP Gilles Lebreton (EFDD), called for an outright rejection of the Commission proposal on grounds that it violated the fundamental principles of subsidiarity and proportionality and that it breached REFIT rules on mandatory impact assessment studies. This could have been the greatest challenge to the Commission proposal and a vote in favour of Lebreton's stand would have stopped the Commission proposal in its tracks. It was however withdrawn for political reasons as the major political groups would not support any proposal coming from EFDD.

10 June 2016 - Council of Ministers

The General Approach adopted by the Council of (Home Affairs) Ministers rejected the Commission's proposed outright bans. Collectors and museums would be permitted to acquire and keep category A firearms, while semi-automatic rifles 'resembling' automatics would not be banned. Nevertheless it introduced bans on reproductions of antique firearms and 'high capacity' magazines plus the re-classification under Category A of semi-automatic firearms when combined with such magazines, while stringently exempting sport shooters to acquire and possess them. This was pushed by France and Germany, thereby ensuring its adoption. It is worth noting that two countries stood out in defence of collectors: Malta and the Netherlands. This Council document set the stage for the IMCO vote that was held shortly afterwards.

13 July 2016 - European Parliament Internal Market and Consumer Protection (IMCO)

The main committee tasked with this file is IMCO with Vicky Ford (ECR) as its Rapporteur. Ms. Ford granted stakeholders several opportunities to express their concerns in meetings and in public hearings in Parliament. Many of our proposals were taken on board when Ms Ford tabled the final draft of her working document. Nevertheless, pressure from S&D which felt emboldened by the Council's General Approach led to compromises by EPP, which is the largest group in the EP. These compromises weakened the Rapporteur's hand in addressing the legitimate concerns voiced by stake holders. The adopted text rejected the outright bans that the Commission lobbied hard to introduce. However, it also contained several potential dangers arising from overly complex legislation, such as the re-classification of Category B semi-automatic centrefires under Category A when these are combined with 'high-capacity' magazines.

16 December 2016 - Announcement of result of Trilogues

Four 'Trilogues' (infamous meetings behind closed doors between the EP Rapporteur and representatives of the Council and the Commission) and a number of technical meetings were held since September. The last of these intense discussions, characterised by the Commission's threat to withdraw its 'support', lasted up to 3am! The compromises reached through these meetings confirmed that the Commission had lost its bid to introduce outright bans. The text had been watered down considerably. It may be said that thanks to the efforts of our representatives and the MEPs that supported a sensible approach, 80% of what they had set out to achieve is now assured. However there are still areas of concern, such as the ludicrous recategorisation of semi-automatic centre-fires under Category A when combined with 'hi cap' magazines and the possibility that important firearms would be marked in those member states where the term 'historical' would be interpreted very restrictively. The EP Rapporteur and the EPP and S&D Shadows hailed this result as a victory. However their enthusiasm was not shared by the ALDE (liberals) Shadow Dita Charanzova who is conscious of the pitfalls in the approved text.

26 January 2017 - IMCO votes on compromise text

IMCO MEPs met to vote whether to accept or reject the Compromise text released on 17 January as the final step prior to the vote in Plenary in March. Twenty-five MEPs voted in favour, nine voted against and two abstained.

WHERE DO WE STAND NOW AND WHAT WOULD HAPPEN IF THE CURRENT TEXT IS APPROVED IN MARCH?

The following firearms have been spared from permanent deactivation or destruction:

1. **All types of automatic firearms and their essential components:** Museums, authorised collectors may continue to acquire and possess such firearms in full working order;
2. **Semi-automatic centre-fire short firearms and essential components thereof, with internal magazines or in combination with removable magazines, which are capable of holding:**
 - a. **no more than twenty rounds:** Licensed persons may continue to acquire and possess such firearms under Category B
 - b. **more than twenty rounds:** Such firearms would be moved to Category A and only authorised collectors or sport shooters who qualify for a special exemption would be permitted to acquire and keep them;
3. **Semi-automatic centre-fire long firearms and essential components thereof, with internal magazines or in combination with removable magazines, which are capable of holding:**
 - a. **no more than ten rounds:** Licensed persons may continue to acquire and possess such firearms under Category B
 - b. **more than ten rounds:** Such firearms would be moved to Category A and only authorised collectors or sport shooters who qualify for a special exemption would be permitted to acquire and keep them;
4. **Semi-automatic centre-fire firearms and essential components thereof, that have been permanently converted from automatic:** These will be moved to Category A and only authorised collectors or sport shooters who qualify for a special exemption would be permitted to acquire and keep them;
5. **Semi-automatic centre-fire long firearms that can be reduced to a length of less than 60cm by folding the stock or removing it without using tools:** These will be moved to Category A and only authorised collectors would be permitted to acquire and keep them.

Note: It is important to note that grandfathering clauses allow current owners to remain in possession of the firearms that they own and which are already registered with the authorities.

The following firearms have been brought into the scope of the directive:

1. **Working reproductions of muzzle-loading firearms:** These will be brought into the scope of the directive, included in Category C and registered;
2. **Firearms converted to fire blanks:** These will be brought into the scope of the Directive and placed in the same Category they were in prior to conversion;
3. **Deactivated firearms:** These will be brought into the scope of the directive, included in Category C and registered;

Note:

- 1) *Airguns, airsoft and paintball devices, alarm and signalling devices will remain outside the scope of the Directive.*
- 2) *Category D is being phased out, hence all deactivated firearm transfers have to be recorded.*

The following measures have been introduced:

1. **Museums and Collectors** have been brought into the scope of the Directive and hence all provisions of the Directive apply to them. All member states will have to issue an authorisation to collectors, who are now defined as ***“any legal or natural person dedicated to the gathering and conservation of firearms or ammunition for historical, cultural, scientific, technical, educational or heritage purposes, and recognised as such by the Member State concerned.”*** Moreover, in the case of those collectors wishing to acquire and keep Category A firearms, the authorisation shall only be issued ‘exceptionally and duly reasoned’ in cases that are ‘individual and special’.
2. **Sport Shooters** will continue to be licensed to acquire, possess and use Category B and C firearms; However those who currently own or wish to own and use semi-automatic centre-fires in combination with ‘high capacity’ magazines that are moved to Category A would have to prove that they are actively practising for or participating in shooting competitions recognised by an official shooting sport organisation of that Member State or by an internationally established and officially recognised shooting sport federation, that they are members of an officially recognized shooting sport organisation and that they are regularly practising target shooting in it for at least twelve months and that the firearm fulfils the specifications required for a shooting discipline recognised by an internationally established and officially recognised shooting sport federation;
3. **Permits to acquire and keep firearms** are to be renewed every five years, unless a continuous monitoring system is in place, and will be withdrawn if the original conditions are no longer met;
4. **The EU Firearms Pass** will also accommodate Category A firearms as described in point 3 above, in order to permit shooters to travel to other members states to participate in international events;
5. **The safe storage of firearms** shall be subject to rules defined by national governments and according to the category to which the firearms belong;
6. **The marking of firearms and ammunition** shall be regulated and standardised, but new markings shall be applied only to newly-manufactured products and those imported into the EU. Member states shall not apply new markings to firearms that they consider to be ‘historical’;
7. **Surplus firearms** held by member states’ police and defence forces may be sold to civilians, including Category A firearms, provided that the acquirer is in possession of the corresponding licence. Such firearms would have to be marked. It is yet unclear whether the exemption applies to firearms considered to be historical;
8. **Distance sales** are permitted provided that the physical transfer of the firearms occurs after verification of the sellers’ and buyers’ identities and the handing over is effected out via a licensed dealer or a national authority;

9. **The roles of dealers and brokers** are defined, including strict rules on firearm transfers, which must include a verification of identity, and up-to-date registries shared with national authorities.
10. **A European database of firearms and owners** will be created, and applications for a licence in Europe will be subject to checking permissions and refusals in other Member States. The database is expected to respect all data protection and privacy rules;
11. **Standards for deactivation, and conversion to blank-firing and salute devices** shall be strictly defined, but prior standards may be recognised by Member States and owners do not need to be de-possessed of the firearms they currently possess;

THE IMPLICATIONS FOR MALTESE FIREARM OWNERS

The pioneers of our Arms Act 2005 and the Arms Licensing Regulations 2006 had the foresight to anticipate sensible changes in the EU Directive:

1. Collectors and sport shooters have always been licensed in respect of Category A and B (Schedules 1 and 2 in Maltese law) firearms that they acquire and possess;
2. The Police record every firearm that arrives in Malta or departs from our islands and every transfer is recorded in the national database.
3. Deactivated firearms and firearms converted to blank firing have always been registered.

Although the current text will not have direct consequences on current owners and users, we would be foolish to think that the considerable problems to be faced on a European level will not impact us in any way. Within fifteen months of the coming into force of the revised Directive, the Malta Arms Act and Arms Licensing Regulations would have to be amended by introducing:

1. A new and restricted level of Collector Licence 'A' covering persons who wish to acquire and possess Schedule I firearms. Such a licence would only be granted in exceptional cases to persons who can prove an academic interest in the subject;
2. A new and restricted level of Target Shooter Licence 'A' enabling sport shooters who currently own or wish to own and use semi-automatic centre-fires in combination with 'high capacity' magazines that are moved to Schedule I: Licensees would have to prove that:
 - a. they are actively practising for or participating in shooting competitions recognised by an official shooting sport organisation of that Member State or by an internationally established and officially recognised shooting sport federation;
 - b. they are members of an officially recognized shooting sport organisation and that they are regularly practising target shooting in it for at least twelve months;
 - c. the firearm fulfils the specifications required for a shooting discipline recognised by an internationally established and officially recognised shooting sport federation;
3. Stringent conditions on collectors and sport shooters for the safe storage of firearms belonging to Schedule I and possible reassessment of licences every five years.

The impact on local authorities and licensees would likely be as follows:

1. The retro-marking and subsequent devaluation of firearms that local collectors would like to acquire from or through member states that interpret the marking exemption of 'historical' firearms' in a very restrictive manner;
2. Draining of Police resources and their diversion from tackling illegal firearms to apply the fluid categorisation of semi-automatic centrefires held by sport shooters on the basis of the capacity of their magazines;

3. Difficulties in enforcing overly complex regulations, leading to pressure on the resources of the courts of law due to regular criminal cases that the prosecutor is likely to lose;
4. Restrictions on travel by sport shooters who will have to carry Schedule I firearms to sporting events and the stigmatisation of participating in such sports with 'prohibited firearms';
5. The criminalisation of innocent citizens who would be charged with possessing objects they would be unaware of owning illegally, such as machine gun belt links that fall under the definition of 'loading devices' as prescribed in the Directive.

WHAT ARE WE DOING TO TACKLE THESE ISSUES BEFORE THE TEXT IS ADOPTED IN THE MARCH PLENARY?

Over the past weeks FESAC and Firearms United officials have been actively engaged in discussions with MEPs and with Brussels-based profession lobbyists in order to draft and propose amendments. To this end a minimum number of thirty-eight MEPs are required to table amendments so that they are put to the vote. That figure and been comfortably surpassed and consequently a number of amendments are likely to be submitted to parliament. Naturally they would have to be supported by a parliamentary majority in order to be approved and incorporated into the Directive. Intense lobbying efforts are therefore underway to convince MEPs that contrary to their perception, the current text still presents serious problems to legal owners and members state authorities.

One would expect Parliament, as the only EU body made of elected representatives, to decide the final version of the Directive. However the Byzantine nature of the EU's structure and its rules grant the unelected Commission power over Parliament itself by allowing it to have the final say whether it accepts the result of the Parliamentary vote. If in the negative, it refers the amended text to Council, which must approve it through a unanimous vote by all twenty-eight countries – clearly an impossibility by all standards. Nevertheless we cannot give up on our mission to obtain the best possible deal for our members. The fight goes on in more ways than one.

A WORD OF THANKS

The collective efforts of all stakeholders would not have been enough if we did not receive the valuable support of MEPs from all political groups. It is thanks to them that we have managed to overcome the worst of the Commission's proposals, including the defeat of the proposed outright bans that would have caused untold harm to law-abiding citizens, their property and important heritage firearms. Thus it is only fair to acknowledge the goodwill of such MEPs who made up for their lack of technical knowledge by consulting us and fighting for important changes to the text to protect our civil liberties.

We may say that we have achieved 80% of our objectives and that we have so far been denied the rest of our aims because of the complex structure of the EU and the political realities arising from the lack of transparency that is exploited by the unelected Commission. Now that we are focusing our efforts on introducing amendments in the March Plenary, we need the support of every sensible MEP to achieve this. It is therefore our duty to demonstrate through reasoned and civil argument that the current text still contains pitfalls that will leave a negative effect on both legal owners and the member state authorities that will have to implement unenforceable legislation.

Above all, we must remind MEPs that that none of these negative measures will have any effect on the illicit trafficking of arms that criminals and terrorists rely on.