



**BELGIAN WEAPON FORUM**

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## **COMMENTS ON EU COMMISSION PROPOSAL TO AMEND THE FIREARMS DIRECTIVE**

*Belgian Weapon Forum (BWF) represents dealers of firearms and operators of shooting ranges in Belgium. BWF is a member of the World Forum for the Future of Shooting Sports Activities (WFSA) and Association Européenne de Commerce d'Armes Civiles ("AECAC"). The forum facilitates meetings between all organisations involving users of firearms (hunters, sport shooters, collectors, individual gun owners, airsofters, ...) in Belgium. BWF represents the sector in various consultation groups and actively cooperates with government bodies in order to ensure a balanced regulative framework for individual and economic activities with firearms.*

BWF welcomes the EU Commission initiative to amend the EU firearms directive (Council Directive 91/477/EEC ) aiming at closing some loopholes that may have been used by criminal organisations and terrorists. The forum supports most of the elements in the proposal of the European Commission to amend the firearms directive, including the establishment of an Implementing Regulation on common minimum standards for deactivation of firearms, the adoption of an action plan against the illegal trafficking of weapons and explosives, and the call for stronger police and intelligence service coordination among Member States.

Such amendments should however be adequate to achieve their objectives and should be proportionate to the legitimate interest of more than 30 million law abiding firearms owners in Europe. However, BWF stakeholders believe that there are matters in the proposal that should be further reviewed with the support of the stakeholders directly involved such as the industry, collectors, shooters, hunters, dealers.

European business and millions of gun owners have shared their concerns related to measures amending Annex I introducing new subcategories to Category A and consequently banning certain types of firearms. Such proposed measure appears to be unreasonable and disproportionate. The EU Commission proposes some fundamental changes to the structure of the EU Firearms Directive by proposing, in short:

- a) a ban on all demilitarized semiautomatic firearms, either long or short;
- b) a ban on all semi-automatic firearms that resemble automatic weapons;
- c) a ban on any object (irrespective of being a weapon) obtained from demilitarized firearms or similar to automatic weapons by deactivation.

The proposed measure establishes that all firearms held at the time of the entry into force of national rules transposed from the Directive would be seized and destroyed, while only the bodies involved in the history of firearms manufacturing may be allowed to possess deactivated firearms.

The EU Commission representatives admitted that this prohibition will not have any impact on terrorism and criminal activities since terrorists and criminals are not buying legally owned (and registered) firearms. Research has shown several times that criminals prefer to use illegal firearms, that are by definition not regulated by the EU Firearms directive. Some of the measures proposed by the EU commission also risk to require substantial police resources that would then be diverted to implement a prohibition of legally owned firearms instead of to combat against illegal firearms trafficking.

It should be noted that:

- reclassification from firearms category B (firearms subject to authorisation) to category A (prohibited firearms) is not an adequate measure to prevent access to firearms by unauthorised persons. The current control mechanisms on acquisition of category B firearms, as implemented by EU Member States, allow a registration of all transactions with these weapons and provides sufficient barriers to prevent these weapons from being abused. Moreover, as indicated in the explanatory note issued by the EU Commission and a preparatory study, the loopholes in the categorisation only involve diversion of firearms that are not in the scope of the directive (e.g. use of improperly deactivated firearms used by terrorist, conversion of blank firing firearms, ...). For these reasons, the Forum believes that any measure to reclassify weapons that are already subject to prior authorisation (category B) into category A is not adequate.
- During the EU Parliament IMCO meeting of 7 December 2015, the representative of the EU Commission defended the position that there are still 4 other categories of firearms that are remaining in category B and therefore rights of hunters and shooters are not limited. This statement is not correct since the prohibition of semi automatic firearms resembling firearms with automatic mechanism overrides this classification.
- The proposed measure appears impracticable. There are millions of firearms that would be prohibited in Europe, and to seize them all to destroy and deactivate them seems a far-off prospect. This is clearly in contradiction with the protection of legitimate expectations, which is a fundamental principle of EU law. Moreover, these procedures will create even additional security risks since collecting these weapons at central places before they can be destroyed will create additional opportunities for criminal organisations to have access to large number of firearms in a short period of time;
- The proposed measure is in many aspects incomprehensible, because it unreasonably restricts the rights - even the acquired rights - of European citizens without having a significant impact on security. Limiting the number and type of firearms legally held does not produce any significant effect on the activities of the criminals acquiring illicit firearms through illegal channels, rather than buying civilian firearms that would be more expensive and would not suit their purpose. Additionally, there is no scientific evidence showing that the reduction of number and type of firearms held could influence crime or terrorism level.
- Demilitarized firearms are not likely to be transformed into automatic weapons when the operation is carried out properly and their parts are modified in a way that they are not interchangeable with the original military parts.
- The criterion of “resemblance” to an automatic firearm is subjective. Semi-automatic firearms are very similar to each other in some detail, and almost all civilian semi-automatic firearm models are derived from a military model. The proposed ban will cover almost all semi automatic pistols used for sporting purposes and existing hunting semi-automatic firearms are likely to be considered as similar to military weapons, at least mechanically.
- The proposal for amendment will have a substantial impact on the budget of the EU Member States that have granted authorisations for semi – automatic firearms that are currently in category B. Based on the first protocol of the European Human Rights Convention, Member States would have to reimburse to their citizens the value of the firearms to be destroyed. Manufacturers and dealers also have to receive compensation. The impact of this measure on the Belgian state budget can be estimated at EUR 250 – 400 million (assuming 250.000 – 400.000 semi-automatic firearms resembling to a firearm with automatic mechanism at an average value of EUR 1.000).
- The prohibition to hold deactivated firearms which are not firearms, but simple metal items without any offensiveness other than being used as blunt objects is even more incomprehensible and unreasonable.

Some of these measures results from last minute amendments made by the EU Commission without any consultation with stakeholders. The explanatory note does also not provide any justification for the new category A7, either does the Commission justify that the proposed amendment is proportionate in view of the objectives pursued by the EU firearms directive This measure shows that the rationale behind this proposal is based on emotional elements and political-media requirements.

With reference to marking, it has been specified that it shall be affixed to the "receiver". Although this is generally positive, it makes sense only for semi-automatic long firearms, while the frame of pistols is not included in the definition and even break-action shotguns and rifles have a different nomenclature. The definition should therefore be further reviewed.

With reference to sale on internet, the Forum would insist on (i) clearly defining the types of transactions in the scope of the prohibition and (ii) limiting to the scope of this prohibition.

As regards the conditions imposed for firearms licences, the Forum does not see how such measure could tackle illicit circulation of firearms in and/or between EU Member States.

With reference to category C of Annex I and the subsequent introduction of new subcategories for Alarm and signal weapons, salute and acoustic weapons as well as replicas and firearms under category B and points 1 to 5 of category C, after having been deactivated, it should be noted that signalling objects, blank firearms and inert replicas are treated as real firearms in terms of acquisition and possession.

Generally, it must be said that the inclusion of these items - as that of deactivated firearms – among firearms appears illegitimate. This is because the definition of firearm, which is derived from the UN Protocol and was fully adopted by the Directive, does not allow to subsume anything other than firearms ("any portable barrelled weapon that expels, is designed to expel or it may be converted to expel a shot, bullet or projectile by the action of a combustible propellant"). Moreover, it may be concluded that it might be useless to include them into other more specific definitions, since in order to be considered firearms and treated as such - even with regards to categorization - objects shall be re-included in such general definition.

Finally, collectors have been appointed as being an important source of firearms for illegal trafficking. The EU Commission does not provide any proof for this accusation. The Forum proposes to include some specific, proportionate regulations covering firearms collectors, including a collector's license regime (similar to the regime of dealers) and mandatory registration of transactions with licensed collectors. The minimum standards should also include an obligation for licensed collectors to keep appropriate records on the firearms in their collection. Under these conditions, collections of some prohibited firearms should be possible for private collectors.

BWF asks the representatives of the Belgian government at EU Council level to :

- Welcome the commission initiative common minimum standards for deactivation of firearms, the adoption of an action plan against the illegal trafficking of weapons and explosives, and the call for stronger police and intelligence service coordination among Member States.
- Delete the proposed category A.7 or replace the proposed wording as to ban mechanisms that convert a semi-automatic weapon to an automatic weapon;
- Propose to the EU Commission to elaborate a license framework for gun collectors;
- Support some technical corrections (e.g. on marking and definitions);
- Examine the impact of implementation of this directive on Belgian state resources and impact on budget;

Our experts are available for any further clarification on technical and legal matters concerning the firearms directive. The can be contacted as follows:

- Thierry Jacobs (technical matters / industry):
- Nico Demeyere (president / legal matters):

Following associations have discussed the EU Commission proposal and have agreed on this common position paper :

- Actieve Verdediging van Wapenliefhebbers / Défense Active des Amateurs d'Armes (gun owners association)
- Belgische Vereniging Van Wapenverzamelaars (collectors, flemish region)
- Fédération belge d'Airsoft (airsofters French speaking community)
- Fros Amateursportfederatie (Flemish omnisport federation )
- Hubertus Vereniging Vlaanderen (Hunters, flemish region)
- Société royale des Amis du Musée royal de l'Armée et d'Histoire militaire (collectors)
- Unact (dealers, focused on Walloon region)
- Union des Fabricants d'Armes (manufacturers)
- Union Royale des Sociétés de Tir de Belgique – aile francophone (olympic shooting federation French speaking community)
- Vlaamse Schietsportkoepel (olympic shooting federation Dutch speaking community)
- Wapenunie (dealers, focused on Flanders region)

These associations represent approximately 80.000 gun owners in Belgium. The economic sector contributes for approximately 2 billion EUR to Belgian GDP and employs 16.000 people.