European Commission

Firearms *acquis*

EU enlargement
Chapters 23&24

Disclaimer: These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union

DG Migration and Home Affairs – Firearms Task-Force

European Commission

The UN Firearms Protocol

- Convention against transnational organised crime (UNTOC), supplemented by three Protocols covering the following areas:
  - Prevention, suppression and punishment trafficking in persons, especially women and children (Trafficking Protocol);
  - Smuggling of migrants by land, air and sea (Smuggling Protocol) and
  - Illicit manufacturing of and trafficking in firearms, their parts and components and ammunition (Firearms Protocol)

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The UN Firearms Protocol in depth

- Article 3 Excellent Definitions
- Article 5 and 6 Criminalisation (obligation to establish as criminal offence: illicit manufacturing, illicit trafficking, illicit obliterating) and Confiscation, Seizing and Destroying illegal firearms
- Art.7 Record Keeping (at least 10 years)
- Art.8 Marking of Firearms at manufacture and import. Rules on marking. Measures for safe marking.

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The UN Firearms Protocol in depth

- Art.9 Deactivation
- Art.10 Export/Import
- Art.11 Prevent theft
- Art.12 Information exchange
- Art.13 National Contact Point
- Art.15 Brokers and Dealers (Registration, licence, disclosure of documents)

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Why the UN Firearms Protocol matters

- Ratified (or approved) by 21 EU Member States
  - AT, BE, BG, CY, CZ, EE, ES, FI, GR, HR, HU, IT, LV, LT, NL, PL, PT, RO, SE, SK, SL + CH, NO
- Ratified (or approved) by 4 WB countries:
  - BiH, ME, RS, FYROM
- Ratified by the EU on 21/03/2014
  - Transposed by EU legislation

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EU law in the field of firearms

- **Directive 91/477/EEC** of 18 June 1991 on control of the acquisition and possession of weapons, as amended by
  - Directive 2008/51/EC of 21 May 2008 amending Council Directive 91/477/EEC
  - Directive (EU) 2017/853 of 17 May 2017 amending Council Directive 91/477/EEC
- **Directive 2009/43/EC** of 6 May 2009 on transfers of defence-related products within the Community
- **Regulation (UE) no 258/2012** of 8 March 2012 implementing Article 10 of the UN Firearms Protocol, and establishing export authorisation, and import and transit measures for firearms
- **Implementing Regulation (EU) 2015/2403** on deactivation standards and techniques for ensuring that deactivated firearms are rendered irreversibly inoperable
  - Amended by Implementing Regulation (EU) 2018/337 of 5 March 2018

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The Regulation 258/2012

Transposes the relevant provisions of Article 10 UNFP on 'General requirements for export, import and transit licensing or authorization systems

Firearms and related items cannot be transferred between States without the awareness and consent of all States involved.

Firearms cannot be exported to or through countries that have not authorised the transfer.

The content of the documents used for legal export and import should be sufficient to ensure tracing.

The Regulation 258/2012

Definition

‘firearm’ means any portable barrelled weapon that expels, is designed to expel or may be converted to expel, a shot, bullet or projectile by the action of a combustible propellant as referred to in Annex I.

The Regulation 258/2012

Definitions of firearms, parts and essential components and ammunition mirror those of Directive 91/477 or direct reference is made to the Community Customs Code.

The list of products to which the proposal applies (in Annex to the proposal), provides for updates and lists the specific exceptions.

General obligation for requiring export authorisation.

Mitigation measures (maximum processing period, possible use of electronic documents and tacit consent for transit)

The Regulation 258/2012

The Regulation shall not apply to:

(a) State to State transactions or State transfers;

(b) Military weapons;

(c) firearms destined for the armed forces, the police, or the public authorities of the Member States;

(d) collectors and bodies concerned with cultural and historical aspects of firearms,

(e) deactivated firearms;

(f) antique firearms and their replicas manufactured before 1899.

The Regulation 258/2012

Authorization

(60 working days for issuing)

To be checked before issuing:

Import country authorization

Third Country transit authorization

(silent consent)

The Regulation 258/2012

Documentation includes:

(a) the dates of issue and expiry;

(b) the place of issue;

(c) the country of export;

(d) the country of import;

(e) whenever applicable, the third country or countries of transit;

(f) the consignee;

(g) the final recipient, if known at the time of the shipment;

(h) particulars enabling the identification of the firearms, and the quantity thereof including, at the latest prior to the shipment, the marking applied to the firearms.

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The Regulation 258/2012

Verification of the authorisation procedure

Simplified procedures for verifiable lawful purposes for temporary exports

Assessing request proceeding for export authorisation similar to those laid down in other commercial policy legislation, namely the 'Dual Use' Regulation .

Record-keeping

The Regulation 258/2012

Simplified procedures

(a)the temporary export by hunters or sport shooters as part of their accompanied personal effects, during a journey to a third country, of:

— one or more firearms,

— their essential components, if marked, as well as parts,

— their related ammunition, limited to a maximum of 800 rounds for hunters and a maximum of 1 200 rounds for sport shooters;

(ii) the re-export by hunters or sport shooters as part of their accompanied personal effects following temporary admission

The Regulation 258/2012

Simplified procedures

(b) When leaving the customs territory of the Union through a Member State other than the Member State of their residence, hunters and sport shooters shall produce to the competent authorities a European Firearms Pass as provided for in Articles 1 and 12 of Directive 91/477/EEC. In the case of travel by air, the European Firearms Pass shall be produced to the competent authorities where the relevant items are handed over to the airline for transport out of the customs territory of the Union.

When leaving the customs territory of the Union through the Member State of their residence, hunters and sport shooters may, instead of a European Firearms Pass, choose to produce another document considered valid for this purpose by the competent authorities of that Member State.

The Regulation 258/2012

Simplified procedures

(a) the re-export of firearms following temporary admission for evaluation or exhibition without sale, or inward processing for repair, provided that the firearms remain the property of a person established outside the customs territory of the Union and the firearms are re-exported to that person;

(b) the re-export of firearms if they are held in temporary storage from the moment they enter the customs territory of the Union until their exit;

(c) the temporary export of firearms for the purpose of evaluation and repair and exhibition without sale, provided that the exporter substantiates the lawful possession of these firearms and exports them under the outward processing or temporary exportation customs procedures.

The Regulation 258/2012

Before issuing autorisation considerations on:

(a) obligations and commitments to the relevant international export control arrangements or relevant international treaties;

(b) considerations of national foreign and security policy,

(c) considerations as to intended end use, consignee, identified final recipient and the risk of diversion.

(d) possible embargo and sanctions

The Regulation 258/2012

refuse to grant an export authorisation if the applicant has a criminal record concerning conduct constituting an offence listed in Article 2(2) of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (1), or concerning any other conduct provided that it constituted an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty;

(b) annul, suspend, modify or revoke an export authorisation if the conditions for granting it are not met or are no longer met.

The Regulation 258/2012

20 years record keeping

In case of suspicious request confirmation to Third country

Secure documents

The Regulation 258/2012

Customs formalities

The exporter shall furnish proof that any necessary export authorisation has been obtained.

The exporter may be required to provide a translation into an official language of the Member State

Possibility, for a period not exceeding 10 days, suspend the process of export, where they have grounds for suspicion that:

(a) relevant information was not taken into account when the authorisation was granted; or

(b) circumstances have materially changed since the authorisation was granted.

In exceptional circumstances and for duly substantiated reasons, that period may be extended to 30 days.

The Regulation 258/2012

Administrative cooperation

Exchange of info on refusals

Information on suspicious activity

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Revised Directive 91/477: tackling the illegal use of firearms

Directive 91/477

- Provisions regulating intra EU circulation of firearms
- Definition of firearms
- Marking obligation
- Authorization to possess weapon
- 3 Categories
- European Firearms Passport
- Exchange of Info

Directive 91/477 - definitions

- Firearms
- Essential Components
- Alarm and signal weapons
- Salute and acoustic weapons
- Deactivated firearm
- Illicit manufacturing
- Illicit trafficking

Directive 91/477 - categories

- Cat. A **Prohibited weapons**: Military Weapons +
  - automatic firearms transformed into semi-automatic firearms
  - long semi-automatic firearms of length less than 60cm
  - long semi-automatic firearms with loading devices of more than 10 rounds or short semi-automatic firearms with a loading device of more than 20 rounds
    +
    prohibition of those individual loading devices

Directive 91/477 - categories

- Cat. B Weapons **subject to Authorization**: Other semiautomatic weapons;
- Cat. C: Weapons **subject to declaration** (all others, including deactivated firearms)
- Cat. D: Repealed

- All firearms *converted* into alarm, signal, salute or acoustic weapons remain in their original category

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Directive 91/477 - marking

- Any firearms or essential component placed on the market must be marked and registered
  - **Name of manufacturer or brand**
  - **Country (or place) of manufacture**
  - **Serial number and year**
  - **Model (where feasible)**
  - **Trade mark (not compulsory)**
  - **ID of the transferring entity (when from government stock)**
- Not mentioned in the Directive: **import marking**

Directive 91/477 - marking

- Essential components
  - All essential components must be marked
  - serial number or alphanumeric or digital code
- Each package of ammunition marked
- Commission implementing act by Sept. 2018

Directive 91/477 - records

- Computerised data-filing system:
  - Serial number, type, make, model…
  - Name, adress, dates
  - Conversion and modification
- Access by licensing AND law-enforcement authorities for 30 years
- Dealers and brokers:
  - Registers
  - Electronic connection with data-filing systems of competent authorities

Directive 91/477 - authorisation

- License for acquisition and possession of weapons:
  - only for persons with a good cause (no convictions for a violent intentional crime)
  - at least 18 years old possible less for hunting and sport shooters
- Resident in another Member State must have the authorisation of both Member States for acquiring and possessing a weapon
- Authorisations reviewed every 5 years at most

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Directive 91/477 - derogations

- Member States in special cases may grant authorisation for military weapons if it is not contrary to the public order and security
  - critical infrastructures, convoys etc.
  - collectors (with registers and identification in data-filing system)
  - museums
  - dealers/brokers
  - target shooters (proof of participation in shooting competitions, 12-month experience, specifications)
  - national defence reservists

Directive 91/477 - transfers

- Transfer to one Member State to another Member State has to be authorised
- Information required:
  - **Names of persons involved (seller, buyer)**
  - **Address of final destination**
  - **Number of weapons**
  - **Particulars enabling identification of weapons**
  - **Means of transfer**
  - **Date of departure/arrival**

Directive 91/477 – sales

- New provision on distance sales: Identity and autorisation of purchaser must be checked at the latest upon delivery by a licensed dealer/broker or a public authority.
- Dealers/brokers may refuse to complete "suspicious" transactions (nature or scale)

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Directive 91/477
Converted and deactivated weapons

- **Gas/Alarm/Salute/Acoustic** weapons classified as firearms if they were converted or are capable of being converted.
- Commission Implementing Act to ensure non-convertibility. Before 14 September 2018

- **Deactivated Firearms** classified as Cat. C
- Implementing Regulation 2015/2403 (amendment of 5/03/2018 to take effect from 28/06/2018)

European Commission

Directive 91/477 Exchanges of information

- Scope: information about authorisations and refusals of transfers between Member States
  - WITH the need for prior authorisation
  - WITHOUT the need for prior authorisation
- System to be provided by the Commission
- Commission Delegated Act to be adopted by the end of 2018

European Commission

The Directive 2009/43 on the intra-community transfers of defence-related products

Aim

Simplify the rules and procedures applicable to intra-Community transfer

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The Directive 2009/43 on the intra-community transfers of defence-related products

Transfer is subject to prior authorization for passage and entrance

European Commission

The Directive 2009/43 on the intra-community transfers of defence-related products

Derogations

Recipient is a governmental body

Supply by EU,NATO,IAEA others

Transfer necessary to:

Implement cooperative armament programme

Humanitarian aid

Maintenance

European Commission

The Directive 2009/43 on the intra-community transfers of defence-related products

General Transfer License

Global Transfer License (list of products, max 3 years)

Individual Transfer License (for one transfer)

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The Directive 2009/43 on the intra-community transfers of defence-related products

Information requested

Description of product

Quantity and volume

Date

Name of supplier and recipients

End user

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The Directive 2009/43 on the intra-community transfers of defence-related products

Customs checks before transfer

List of defense products

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Joint Communication to the European Parliament and the Council – Elements towards an EU Strategy against illicit Firearms, Small Arms & Light Weapons and their Ammunition "Securing Arms, Protecting Citizens"

Revision of the 2005 Small Arms Light Weapons (SALW) Strategy, taking into account:

the new security context,

EU initiatives and developments in conventional arms control namely the Arms Trade Treaty (ATT), the conclusion of the UN Firearms Protocol, the revision of the EU legislation on firearms, the activities with neighbouring countries as defined by our Action Plan and the European Multidisciplinary Platform Against Criminal Threats (EMPACT).

European Commission

Joint Communication to the European Parliament and the Council – Elements towards an EU Strategy against illicit Firearms, Small Arms & Light Weapons and their Ammunition "Securing Arms, Protecting Citizens"

Guiding coordinated approach between Member States and the EU

Reinforcing the link between external and internal security

Taking responsibility in relation to priority regions

Promoting a global rules-based cooperative order with multilateralism

European Commission

Joint Communication to the European Parliament and the Council – Elements towards an EU Strategy against illicit Firearms, Small Arms & Light Weapons and their Ammunition "Securing Arms, Protecting Citizens"

The Strategy supports:

reinforced international and EU-level norms;

improved controls and traceability of firearms, SALW and ammunitions during their life-cycle;

increased enforcement and operational cooperation;

strengthened assistance and international cooperation.

European Commission

Joint Communication to the European Parliament and the Council – Elements towards an EU Strategy against illicit Firearms, Small Arms & Light Weapons and their Ammunition "Securing Arms, Protecting Citizens"

Support the UN and WCO

Strengthen the Dialogue with:

Western Balkans

Eastern Europe Neighbourhood

MENA Countries

Sahel Region

European Commission

Thanks for your attention

Don't hesitate to contact us

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