Firearms, their parts and components and ammunition: implementation of Article 10 of the United Nations Firearms Protocol and establishing export authorisation, import and transit measures

2010/0147(COD) - 13/10/2011 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 624 votes to 17 with 2 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council implementing Article 10 of the United Nations' Firearms Protocol and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition.

Parliament adopted its position in first reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise negotiated between Parliament and Council. The Commission proposal is amended as follows:

Subject, definitions and scope: the Regulation covers **firearms, their parts and essential components and ammunition**. With regard to deactivated firearms' the texts requires Member States to make arrangements for deactivation measures to be verified by a competent authority. Member States shall, in the context of that verification, provide for the issuance of a certificate or record attesting to the deactivation of the firearm or the apposition of a clearly visible mark to that effect on the firearm. The Regulation is consistent with Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment.

Export authorisation: this must be established in accordance with the **form set out in Annex II** and shall be granted by the competent authorities of the Member State where the exporter is established and shall be issued in writing or **by electronic means**.

Where the export of firearms, their parts, essential components and ammunition requires an export authorisation, Member States may use a single procedure to carry out the obligations imposed on them by the Regulation and by Common Position 2008/944/PESC.

If the firearms, their parts and essential components are located in one or more Member States other than the one where the application has been made, that fact shall be indicated on the application. In this case:

- the competent authorities of the Member State to which the application for authorisation has been made shall immediately consult the competent authorities of the Member State or States in question and provide the relevant information;
- the Member State or States consulted shall make known within 10 working days any objections it or they may have to the granting of such an authorisation, which shall bind the Member State in which the application has been made.

Transit: Before issuing an export authorisation for firearms, their parts and essential components and ammunition, the Member State concerned shall verify that: This provision does not apply:

to shipments by sea or air and through ports or airports of third countries provided that there is no transhipment or change of means of transport; in the case of temporary exports for verifiable lawful purposes, which include hunting, sport shooting, evaluation, exhibitions without sale and repair.

'Temporary export' means the movement of firearms leaving the customs territory of the Union and intended for re-importation within a period **not exceeding 24 months.**

Processing requests: Member States shall process requests for export authorisation within a period of time, to be determined by national law or practice which shall **not exceed 60 working days**, from the date on which all the required information has been provided to the competent authorities. Under exceptional circumstances and for duly justified reasons, the period in this paragraph may be extended to 90 working days.

The period of validity of an export authorisation **shall not exceed the period of validity of the import authorisation**. Where the import authorisation does not specify a period of validity, except under exceptional circumstances and for duly justified reasons, the period of validity of an export authorisation shall be not less than nine months.

For the purpose of **tracing**, the export authorisation and the import licence or import authorisation issued by the importing third country and accompanying documentation shall together contain certain prescribed information that includes particulars enabling the identification of the firearms, their parts and essential components and ammunition, and the quantity thereof including at the latest prior to the shipment the marking applied to the firearms.

Simplified procedures: such procedures shall apply for the **temporary export or the re-export of firearms**, their parts, essential components and ammunition.

No export authorisation shall be required for :

- the temporary export by **hunters or sport shooters** as part of their accompanied personal effects, during a journey to a third country, provided that they substantiate the reasons for the journey, in particular by producing an invitation or other proof of the hunting or sport shooting activities in the third country of destination;
- the re-export by hunters or sport shooters as part of their accompanied personal effects following temporary admission for hunting or sport shooting activities, 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.

When leaving the customs territory of the Union through Member State other than the Member State of their residence hunters and sport shooters shall produce to the competent authorities a **European Firearms Pass**. 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.

The competent authorities of a Member State shall for a period not exceeding 10 days, **suspend the process of export** or, if necessary, otherwise prevent firearms, their parts and essential components or ammunition from leaving the customs territory of the Union through that Member State, where they have grounds for suspicion that the reasons adduced by hunters or sport shooters are not in conformity with the relevant considerations and the obligations laid down in the Regulation.

Member States shall in accordance with their national law establish simplified procedures for: i) the re-export of firearms following temporary admission for evaluation or exhibition without sale, or inward

processing for repair (under certain conditions); ii) he re-export of firearms in the event that they are held in temporary storage from the moment they enter the customs territory of the Union until their exit and the temporary export of firearms for the purpose of evaluation and repair and exhibition without sale, (under certain conditions).

Refusal to grant an authorisation: an export authorisation shall be refused if the person applying for it has a criminal record concerning conduct constituting an offence listed in Council Framework Decision 2002/584/JHA on the European arrest warrant and the surrender procedures between Member State, 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.**

Report: five years after the entry into force of the Regulation and following that period, upon request of the Firearms Exports Coordination Group and in any event every 10 years the Commission shall review the implementation of the Regulation and present a report to the European Parliament and the Council on its application.

Delegated acts: in order to maintain the list of firearms, their parts and essential components and ammunition for which an authorisation is required, the Commission will have the power to adopt in respect of aligning Annex I to this Regulation to Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff and to Annex I to Directive 91/477 /EEC.

The Regulation will be applicable 18 months after its date of publication.