

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

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The Commission presented a report on the implementation of Regulation (EU) No 258/2012 defining the rules applicable to firearms export licenses with a view to implementing Article 10 of the United Nations Protocol against the Illicit Manufacturing of and Trafficking in firearms (UN Firearms Protocol).

An externally commissioned evaluation study set out to determine whether the current procedures and arrangements established by the Regulation achieved the expected results and whether the Regulation is still up to date.

The Commission's **findings** on the implementation of Regulation (EU) No 258/2012 are **mixed**. Although it has broadly achieved its assigned goals, the Regulation is nevertheless also the victim of both its **imprecision** and its complex articulations with other EU legal instruments.

Relevance: in the light of the evaluation, the report concludes that **the rationale for EU Regulation 258 /2012 remains** and that the objectives and measures provided for in the Regulation are relevant on the whole. Harmonised controls on imports of firearms in the customs territory remain a priority in order to control the conditions for legal trade. The Regulation also remains fully relevant to exports, probably even more so now than at the time of its adoption, given the political instability and armed conflicts in many countries near the European Union.

However, **allowing the competent authorities to choose is a weakness of the Regulation**, whose implementation and interpretation should in principle be uniform.

The Regulation does not establish a harmonised licensing system for imports and therefore has little relevance in this respect.

Added value: whilst the Regulation has enabled the European Union to ratify the United Nations Firearms Protocol, **the regulatory and administrative landscape remains very disparate**, because of the lack of clarity of some provisions; complex articulations with other instruments; the leeway given to the Member States in their administrative procedures; the general nature of the provisions governing information exchanges and administrative cooperation.

Effectiveness: Member States have all made progress in uniformly applying the Protocol. The provisions of the Regulation have been instrumental in terms of monitoring the movements of firearms through the external borders of the EU. However, **harmonisation is still patchy**.

Many of the Member States feel that the single procedure allows them to apply an identical procedure and identical criteria to all exports of weapons, civil and military alike.

The absence of any provisions for export markings in the case of deactivated weapons or alarm weapons, the lack of compliance by nine Member States with the minimum data retention period of 20 years, disparate practices regarding national records, the absence of interconnectivity between intra-EU transfer files and files for export licences make **traceability and the full reconstitution of movements difficult**.

Most exporters feel that the time needed to process applications, while consistent with the Regulation, remains too long.

Efficiency: while the Commission's original proposal set out to address the problems of administrative costs generated by the diversity of national laws and procedures, the evaluation has not demonstrated that the impact of the Regulation has been positive, in particular because harmonisation has been patchy. Confidentiality and the patchy nature of commercial or government data make it difficult to analyse the Regulation's financial impact in detail.

Outlook: the Commission intends to fully assume its responsibilities in order to **assist Member States** and guarantee the Regulation's full implementation, including, where appropriate, through formal exchanges should the evaluation reveal practices that are in breach of the Regulation.

A number of **non-legislative actions** might be taken to improve exchanges of best practices, develop guidelines for the Regulation's implementation and make better use of the Firearms Exports Coordination Group.

More generally, beyond any clarifications that might be made to improve the Regulation's application, a revision could be envisaged following an impact study, based on the following points of discussion.

- certain **definitions** in the Regulation should be made more consistent with other pieces of legislation ('parts' and 'essential components', 'temporary export', 'deactivated firearms', etc.);
- the provisions on **simplified procedures** could be made clearer. Possible options might include encouraging the use of global authorisations or a tie-in with the status of 'authorised economic operator for security and safety';
- the methods used to **process applications for export licences** could be aligned, in particular through the systematic consultation of criminal records in the Member States (and not simply in the country in which the previous application was made);
- a **computerised system** for submitting applications would facilitate information exchanges on refusals, allow interoperability between the various systems, and ensure reliable statistical collection;
- the matter of **generally applying the principle of tacit agreement of third countries of transit** (or some of them) could also be raised insofar as it enabled shorter procedures for exporters;
- lastly, the Regulation's provisions could usefully be clarified so that, in accordance with the Firearms Protocol, weapons imported are systematically **marked along harmonised lines** to enable identification of the first country of import.