



EUROPEAN COMMISSION

*Brussels, 28.7.2016
C(2016) 4890 final*

*Mr Milan ŠTĚCH
President of the Senát
Valdštejnské náměstí 17/4
CZ – 118 01 PRAGUE 1*

Dear President,

The Commission would like to thank the Senát for its Opinion on the Proposal for a Directive amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons {COM(2015) 750 final} and the Communication "Implementing the European Agenda on Security: EU action plan against illicit trafficking in and use of firearms and explosives" {COM(2015) 624 final}.

The objective for revising Council Directive 91/477/EEC on control of the acquisition and possession of weapons ('Firearms Directive')¹ is to update the existing legislation on the possession and acquisition of legal firearms in order to improve security for EU citizens. This includes measures such as banning certain dangerous assault weapons, including highly powerful automatic and semi-automatic ones.

The Commission notes that tragic events such as massacres, not limited to terrorist acts, have been committed with firearms in several Member States, including with legally owned firearms. The risk created by certain semi-automatic firearms was also highlighted by all Member States in the context of the European Council of 18 December 2015.

A study conducted in 2014 to contribute to the evaluation of the existing Firearms Directive² highlighted that in 2013 in certain Member States, including the Czech Republic, a significant number of homicides were committed with legally owned firearms. The Czech Republic also reported 132 cases of homicides where the firearm was never identified.

¹ OJ L 256, 13.9.1991, pp. 51-58.

² Study on the Evaluation of the Firearms Directive, Technopolis:
<http://ec.europa.eu/DocsRoom/documents/8385?locale=en>

Against this background, the Commission notes that it does not propose the prohibition of all semi-automatic firearms but only a limited number of the most dangerous firearms. The Commission is currently working with the Council and the European Parliament to refine the specific criteria for the identification of particularly dangerous firearms. All the other categories of semi-automatic firearms are not modified and could, therefore, still be acquired by private persons subject to national authorisation.

The proposal aims to find a balance between the legitimate expectations of hunters, sports shooters and collectors and the necessity to safeguard the security of citizens, notably by addressing the existing loopholes in the current Firearms Directive. The Commission is confident that the ongoing discussions with the Member States, including the Czech Republic, and the European Parliament will help to further improve the proposal while maintaining this balance.

In response to the more technical questions in the Opinion, the Commission would like to refer the Senát to the annex to this letter.

The Commission hopes that these clarifications address the issues raised by the Senát and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Elżbieta Bieńkowska
Member of the Commission*

ANNEX

The Commission has carefully considered each of the issues raised by the Senát in its Opinions and is pleased to offer the following clarifications.

On illegal firearms:

The Commission shares the Senát's concern that the proposed measures on the possession and acquisition of weapons by civilians alone cannot resolve all of today's security challenges. To address this, the Commission also adopted the EU action plan against illicit trafficking in and use of firearms and explosives on 2 December 2015.

On the legal and practical implications of the proposed prohibition:

The proposal aims to introduce rules at EU level that already exist in many Member States. For example, medical tests already exist in 23 Member States and strict rules on semi-automatic already exist in several Member States.

It should be noted that the Council has proposed provisions to allow Member States to authorise those citizens currently holding firearms legally to continue holding them even if they will be prohibited under the proposed Directive. This would alleviate the risk of financial burdens for national budgets.

On national registries:

Concerning record keeping for deactivated weapons, the Commission adopted the Implementing Regulation 2015/2403 (deactivation regulation) on 15 December 2015 following a unanimous vote by Member States in the Firearms Committee. This Regulation provides common minimum rules for the deactivation of firearms. Records on deactivated weapons are important to ensure their traceability. In the 2015 Study by the United National Office on Drugs and Crime (UNODC) on Firearms, the reactivation of deactivated weapons was highlighted as a current trend in the Czech Republic.

On the inclusion of alarm, signal, salute and acoustic weapons:

On alarm/signal and salute/acoustic weapons, the adoption of the proposal would imply that owners must make a simple declaration of holding these weapons. The way in which this declaration takes place can be decided by the relevant authorities in the Member States. It is important to include these weapons in the scope of the Directive given that in the absence of common rules, experience shows that conversion of such firearms into active firearms is sometimes possible. The 2015 UNODC Study on Firearms highlights the concerns of the Czech authorities with the trend of conversion of alarm weapons into live firing arms.

On implementing acts:

Article 291 of the Treaty on the Functioning of the European Union states that where uniform conditions for implementing legally binding acts of the Union are needed, those acts shall confer implementing powers on the Commission.

The Commission's approach to the delegation of powers is based on the principle that acts adopted through a legislative procedure best ensure the democratic legitimacy envisaged by the Treaties. However, properly used, implementing as well as delegated acts are an integral tool of better law-making, contributing to simple and up-to-date legislation and its efficient and swift implementation. As regards the present proposal, the Commission finds that such implementing powers are necessary for an effective implementation of the proposed Directive. The final decision on whether such powers are to be given to the Commission is in the hands of the legislator. Moreover, the Commission would also like to recall that the implementing powers conferred on it would be subject to an examination procedure by a Committee in which all Member States are represented.

On the transposition period:

The Commission believes that once the proposed Directive is adopted, it should be quickly transposed by Member States reflecting the urgent need to better protect citizens from security threats. However, the Commission understands the difficulties for Member States in regard to certain provisions and will consider any reasonable proposals in this regard in the context of the discussions with the Council and the European Parliament.

On the terms 'essential component' and 'replica':

The Commission is aware of the calls for a more precise definition of certain terms. Discussions within the Council have aimed to provide clarification on some of these terms. Hence the General approach adopted by the Council on 8 June 2016 contains the following definitions:

Essential components "means the barrel, frame, the receiver, including both upper and lower receivers, where appropriate, slide, cylinder, bolt or breech block which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted."

Replicas are understood to be objects that have a "physical appearance of a firearm ("replica") but which are manufactured in such a way that they cannot be converted to firing a shot or expelling a bullet or projectile by the action of a combustible propellant." Such objects are excluded from the scope of the proposed revised Directive.