



FACE'S RESPONSE TO THE EUROPEAN COMMISSION'S COMMUNICATION ON FIREARMS AIMING AT THE WRONG TARGET

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Executive Summary

FACE, the European Federation for Hunting and Conservation, represents the interests of Europe's 7 million hunters and therefore the largest group of law-abiding users of civilian firearms in the EU. FACE, which is not a "gun-rights" organisation, supports an adequate control of firearms in order to meet public security demands in the EU and globally. FACE is in favour of a set of evidence-based EU rules on legal civilian firearms that complements national legislation.

At EU level, the Firearms Directive, which is an instrument of the internal market, currently provides a coherent framework on legal civilian firearms. It creates mutual confidence amongst Member States whilst both respecting differing national sensibilities and allowing the introduction of stricter measures. The Directive was adopted in 1991 and thoroughly amended, with a broad political agreement, in 2008. FACE does not see at this stage the need for tabling a legislative proposal to amend the Directive but considers in any event that the final decision whether or not to amend the Directive should only be taken by the European Commission following due process, after a proper assessment of the situation on the basis of facts and transparent data.

Unfortunately, through a number of initiatives that FACE considers very questionable from a democratic point of view, the Commission seems to hold the predetermined view that the Directive needs to be rewritten. The basis for this amendment would be the **Commission's unsubstantiated claim that legal firearms feed the illegal market.**

In its Communication "Firearms and the internal security of the EU: protecting citizens and disrupting illegal trafficking", presented by Commissioner Malmström in October 2013, the Commission lists a number of priorities and tasks at EU level that concern both legal and illegal firearms. FACE welcomes the initiatives laid down in the Communication that pertain to illicit activities. **FACE, however, contests the method of mixing up throughout the Communication legal and illegal activities and, above all, the arguments and altered data put forward by the Commission to establish a link between the two.**

The Commission claims that differences in national legislation on firearms are exploited by criminals, as these "*may seek to acquire firearms where national procedures are regarded as most flexible*". **However, the Commission does not provide any evidence to substantiate this claim.** Furthermore, under the Directive, criminal record checks are already part of the conditions to acquire any firearm, so criminals are already barred from acquiring them.

The Commission suggests a number of changes in the Directive, including the classification of firearms in different categories, which is the Directive's cornerstone as regards harmonisation of national legislation. In doing so, **the Commission gives the wrong impression that, under current EU rules, many types of firearms can be sold over the counter or with very little formalities, makes technical mistakes and dismisses (and even misquotes) a 2012 Commission Report on the same topic.**

However, under the Directive, the acquisition and possession of *any* firearm (including the typical hunting rifle and shotgun) is at least subject to a number of controls, with the possibility for Member States to introduce stricter measures. Firearms are registered and "*linked to their owner at any moment*" and Member

States can only permit the acquisition and possession of firearms to persons who have “*good cause*”, are at least 18 years of age and “*are not likely to be a danger to themselves, to public order or to public safety*”.

The Commission does not only fail to substantiate the need for further and large harmonisation of national legislation. The plans laid out in the Communication also impinge unnecessarily on **the competences of the Member States and the principles of subsidiary and proportionality**, as already pointed out by the German *Bundesrat*.

The Communication also alters statistics on legal ownership, homicide and suicide, incorrectly listing, as the percentage of legally-held firearms, the estimated percentage of *both* legal and illegal firearms.

Furthermore, **the Commission uses obscure data about stolen and lost firearms** in an attempt to justify the introduction of EU common standards on the home storage of firearms. The Commission resorts to a figure with the broadest scope and does not even allow the possibility to break it down and have a peer review. Paradoxically, even in the hypothetical situation that all the unsubstantiated figures and estimations invoked by the Commission were true, the percentage of legally-held firearms that were stolen or lost would still be insignificant and would only represent an extremely low percentage of the illegal market. As a worrying sign of its misrepresentation of figures, **the Commission provides one single example** of the exact number of firearms stolen in a given period in one Member State (the UK) **and**, by making a selective reading of the national source, **multiplies by almost four the real figure**.

According to the Commission, firearms that have been deactivated are being illegally reactivated and diverted to criminals. However, the Directive already lays down precise and strict requirements concerning the deactivation of firearms, including that deactivated firearms be “*rendered permanently unfit for use*”. The Commission has even failed to issue common guidelines on deactivation, as required by the Directive. Similarly, **the Commission argues that items such as air weapons and blank-firing pistols are being converted into firearms.** However, the Directive also contains specific provisions to deal with potential problems with convertible weapons and requires that Member States treat them as firearms. If there is a problem with deactivated firearms and convertible weapons, **the Commission should fulfil its obligation by ensuring that Member States correctly implement the Directive, instead of advocating additional regulation.**

Finally, **the Commission conducted in 2013 a misleading process to gather public opinion** about firearms. The Commission first launched a public consultation which received an overwhelming response from EU citizens (over 81 000) against further EU action on legal firearms. The Commission, however, dismissed the results of that consultation and subsequently conducted a Eurobarometer survey with completely misleading questions that induced respondents to believe that there are not already EU common standards on legal firearms. On the basis of the results of this survey, Commissioner Malmström argued that “*there is a clear need for EU action, and encouragingly, most Europeans agree that something needs to be done*”. **FACE considers that the Commission has misused public opinion in this process.**

Despite having being excluded, without explanation, from the recently created Firearms Expert Group, FACE is eager to engage constructively in an open debate on legal civilian firearms.

Nevertheless, **FACE is convinced that the Commission is aiming at the wrong target, since legal firearms owners are not the problem. The EU should not divert public resources from actions specifically aimed at fighting illegal activities.**

Decisions should be based on evidence, respect the principle of subsidiary and not serve as an excuse for failures to enforce existing rules. Unfortunately, the Commission’s initiatives do not fulfil any of these criteria.

FOR FURTHER INFORMATION

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