

Complaint submitted on: 14 April 2016

European Ombudsman

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Name	Size	Content type
IMCO - Draft report - 22032016.pdf	625K	application/pdf
Email 17-02-16 aa-sap.pdf	5K	application/pdf
Email 11-03-16 sap-aa.pdf	26K	application/pdf
IMCO Draft report 22032016 page 14.pdf	11K	application/pdf
Email 16-02-16 sap-aa.pdf	15K	application/pdf
Draft Amending Directive-1.pdf	303K	application/pdf

Against which European Union (EU) institution or body do you wish to complain?

European Commission

What is the decision or matter about which you complain? When did you become aware of it? Add annexes if necessary.

The Foundation for European Societies of Arms Collectors (FESAC) is registered in the Netherlands (Chamber of Commerce no. 34239340) and is formed of national organisations which represent European citizens who are serious legitimate collectors of arms in general, and including, but not limited to, firearms, ammunition and related artefacts and who are recognised as such by their respective national authorities in accordance with the Arms Directive.

FESAC believes that the Commission officials responsible for drafting and promoting the proposed directive have abused their power and wilfully both slandered and libelled many thousands of recognised collectors who are law abiding citizens in Member States, in order to attain their not only mistaken, but undemocratic goal.

It is for these reasons that we are writing to you and requesting action. We detail below specific provisions and proposed amendments to the Directive together with their explanations that constitute an unwarranted assault on law abiding citizens and have little if anything to do with addressing criminal behaviour.

Article 2 of the Arms Directive 91/477/EEC exempts firearm collectors from its provisions:

"This Directive shall not apply to the acquisition or possession of weapons and ammunition, in accordance with national law, by the armed forces, the police, the public authorities or by collectors and bodies concerned with the cultural and historical aspects of weapons and recognized as such by the Member State in whose territory they are established. Nor shall it apply to commercial transfers of weapons and ammunition of war."

Thus the collectors we speak of here are those who are recognised by their respective Member State in order to be able to acquire and possess firearms and ammunition that fall under Directive categories A to D and which are permitted and regulated under national law. FESAC does not speak for persons who fall outside these parameters and who call themselves 'collectors' but are not recognised as such.

On 18 November 2015 the Commission published a proposal for amending the Arms Directive. The Detailed Explanation states the following:

"In Article 2 the proposal newly includes collectors within the scope of the directive. Collectors have been identified as a possible source of traffic of firearms by the evaluation carried out. Therefore, collectors will have the possibility to acquire firearms but only subject to authorisation/declaration."

In Recital (4) it is further stated that:

"Bodies concerned with the cultural and historical aspects of weapons and recognised as such by the Member State in whose territory they are established and holding in their possession firearms classified in category A acquired before the date of entry into force of this Directive should be able to keep those firearms in their possession subject to authorisation by the Member State concerned and provided that those firearms have been deactivated.

Recital (5) continues that:

"Since collectors have been identified as a possible source of traffic of firearms, they should be covered by this Directive."

During the various hearings held in the IMCO and LIBE Committees, Commission officials, particularly Mr. Pierre Delsaux and Mr Alain Alexis from DG Grow, have repeated the above unfounded allegation and Mr. Alexis went further to state that collectors are "a serious problem" and that he will share the proof⁽¹⁾. The FESAC Chairman held a meeting with Mr. Alexis to ask him for such proof but none related to recognised collectors was forthcoming. This unwarranted assault on collectors' good name is outrageous, even libellous and slanderous. Recognised, legitimate collectors holding licensed firearms have not, and will not be a source of illicit trafficking. There are other clearly known sources for this, such as poorly controlled ex-military stockpiles in Eastern Europe and former Yugoslavia.

Over the past months FESAC has written various letters, emails and reports addressed to Commission officials (including Commission Vice President Katainen) as well as to the Council and Parliament and its IMCO and LIBE committees. Our position has now been vindicated by IMCO Rapporteur Vicky Ford who in her Draft Report published on 29 March has proposed the deletion of the Commission accusation in the Recital.

However the Commission has not withdrawn its serious allegation that is clearly intended to tarnish collectors in the eyes of the Council and Parliament in order to achieve its objective to bring collectors into the Directive. Sadly even the IMCO Rapporteur stopped short of reinstating the exemption, so great was the false impression and pressure generated by the Commission.

Recognised collectors feel aggrieved by these officials' maladministration and they have requested FESAC as their European representative to seek the Ombudsman's assistance in holding these officials accountable for their faulted actions. They further insist on a public recognition and apology for these officials' outrageous words, the diversion of due democratic process, and the unprecedented attack on law abiding citizens of the EU. We

are of course ready to supply more detail than we have written here. Worse, the great amount of time and effort spent on this is diverting valuable Commission time and resources from direct pursuit of the real target, the terrorists and criminals, which should be the first objective in seeking public safety.

(1) Open link and start at 02:16:15:

<http://www.europarl.europa.eu/news/en/news-room/20160209IPR13553/Committee-on-Civil-Liberties-Justice-and-Home-Affairs>

What do you consider that the EU institution or body has done wrong?

Please refer to our complaint. It covers everything.

What, in your view, should the institution or body do to put things right?

Take stock of what we have noted and proposed in part 3, withdraw its unfounded allegation, apologise for its actions and investigate the officials that fed it incorrect information and hold them accountable.

Have you already contacted the EU institution or body concerned in order to obtain redress?

Yes (please specify and submit copies of the relevant correspondence)

Please refer to the attached emails and particularly our last email to which we have not had any reply. Our Chairman has also met Mr. Alexis in person to discuss this matter and no tangible evidence against recognised collectors was produced.

Last mail:

From: Secretary FESAC [<mailto:secretary@fesac.eu>]

Sent: 11 April 2016 12:13

To: Alain.Alexis@ec.europa.eu; Sylvia.Kainz-Huber@ec.europa.eu

Cc: Elzbieta.Bienkowska@ec.europa.eu; Tomasz.Husak@ec.europa.eu; jyrki-katainen-contact@ec.europa.eu; 'Stephen A. Petroni - FESAC' <chairman@fesac.eu>

Subject: Request to reply

Dear Mr. Alexis,

We do not appear to have received a reply to our email dated 11th March that was sent by the FESAC chairman.

Article 2 of the current Arms Directive 91/477/EEC exempts firearm collectors from its provisions provided that they are "concerned with the cultural and historical aspects of weapons and recognized as such by the Member State in whose territory they are established."

It therefore follows that within the context of the Directive, the word 'collectors' refers solely to persons who are recognised by the authorities in their respective Member States and who are thus permitted to acquire and possess firearms that fall under the scope of the Directive and which are subject to authorisation or declaration.

The Commission's proposal to include recognised collectors in the Directive is set out in Recital 5:

"In Article 2 the proposal newly includes collectors within the scope of the directive.

Collectors have been identified as a possible source of traffic of firearms by the evaluation carried out. Therefore, collectors will have the possibility to acquire firearms but only subject to authorisation/declaration."

This statement is fundamentally incorrect since Member States are already obliged under the current Directive to permit the acquisition and possession of firearms for cultural and historical purposes provided that the collector is recognised and the firearms are registered with the Member State authorities. In effect the Commission is proposing to

change the status quo of recognised collectors on the basis of an allegation that is clearly not applicable to such persons.

In the closing remarks that you made during the LIBE Mini Hearing of 15 February you emphasised that “Maintenant revenant sur les collectionneurs, nous pensons qu’effectivement les collectionneurs est un probleme serieux. Je pense qu’ un intervenant a dit qu’il n’y a pas d’exemples. Nous avons des exemples que nous pourrons evidamment partager avec vos membres, sur tous ces elements bien sur nous sommes a votre disposition pour y revenir.”

We are once again asking you to substantiate the Commission’s serious allegation with clear evidence that recognised collectors ‘have been identified as a possible source of traffic of firearms’. Cases involving other persons who collect firearms falling under the Directive without such recognition are doing so illegally and are subject to prosecution, hence such cases cannot be considered as evidence against recognised collectors.

The lack of evidence to substantiate the unwarranted allegation against recognised collectors has also been highlighted by MEPs in the IMCO and LIBE Committees. Moreover the IMCO Rapporteur proposes the deletion of Recital 5, vindicating FESAC’s position that recognised collectors acquiring and possessing firearms legally cannot be a source of traffic of firearms.

Given the circumstances, recognised collectors in EU Member States who are represented by FESAC feel that they have been slandered by the Commission and subjected to possible collateral damage. Acting on their behalf FESAC asks the Commission to either substantiate its claim or else withdraw it. Please consider this as formal notice to which a reply is required within three working days.

Sincerely,

Hanny Spruijt

Secretary FESAC

If the complaint concerns work relationships with the EU institutions and bodies: have you used all the possibilities for internal administrative requests and complaints provided for in the Staff Regulations? If so, have the time limits for replies by the institutions already expired?

Not applicable

Has the object of your complaint already been settled by a court or is it pending before a court?

No

Please select one of the following two options after having read the information in the box below:

Please treat my complaint publicly

Do you agree that your complaint may be passed on to another institution or body (European or national), if the European Ombudsman decides that he is not entitled to deal with it?

Yes

Met vriendelijke groeten, Kind regards, Mit freundlichen Grüßen,

Hanny Spruijt