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*Committee on Civil Liberties, Justice and Home Affairs*

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**2013/0083(NLE)**

19.9.2013

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## **DRAFT RECOMMENDATION**

on the proposal for a Council Decision on the conclusion, on behalf of the European Union, of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime

(COM(2013)0154 – C7-0000/2013 – 2013/0083(NLE))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Véronique Mathieu Houillon

***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

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## **DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION**

**on the proposal for a Council Decision on the conclusion, on behalf of the European Union, of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (COM(2013)0154 – C7-0000/2013 – 2013/0083(NLE))**

### **(Consent)**

The European Parliament,

- having regard to the proposal for a Council Decision (COM(2013)0154),
  - having regard to the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, adopted by the United Nations' General Assembly (UNGA) on 31 May 2001,
  - having regard to the request for consent submitted by the Council in accordance with Articles 114 and 207, in conjunction with point (a) of Article 218(6) of the Treaty on the Functioning of the European Union (C7-0000/2013),
  - having regard to the Stockholm Programme and its implementing Action Plan (COM(2010)0171),
  - having regard to its resolution of 12 September 2013 on the Second Report on the implementation of the EU Internal Security Strategy (2013/2636(RSP))<sup>1</sup>,
  - having regard to its resolution of XXX on Organised crime, corruption, and money laundering: recommendations on action and initiatives to be taken (CRIM committee final report)<sup>2</sup>,
  - having regard to Rules 81 and 90(7) of its Rules of Procedure,
  - having regard to the recommendation of the Committee on Civil Liberties, Justice and Home Affairs (A7-0000/2013),
1. Consents to conclusion of the Protocol;
  2. Instructs its President to forward its position to the Council, the Commission, the governments and parliaments of the Member States, Europol and Eurojust.

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<sup>1</sup> Texts adopted for that date. P7\_TA(2013)XXXX.

<sup>2</sup> Texts adopted for that date. P7\_TA(2013)XXXX.

## **EXPLANATORY STATEMENT**

The United Nations Convention against Transnational Organized Crime (UNTOC), adopted on 15 November 2000, is the first global instrument in the fight against transnational organised crime and trafficking in firearms. Three protocols supplement the Convention, providing for specific measures against specific crimes. The protocols cover respectively trafficking in persons, smuggling of migrants and illicit manufacturing of and trafficking in firearms. The European Community signed the Convention and the protocols against the smuggling of migrants and trafficking in persons on 12 December 2000, and the protocol against the illicit manufacturing of and trafficking in firearms on 16 January 2002.

The Union approved the conclusion of the Convention in April 2004 and the smuggling and trafficking protocols in July 2006. The Protocol against the Illicit Manufacturing of and Trafficking in Firearms (UNFP) was signed on 16 January 2002, but its conclusion was deferred, pending the necessary amendments to EU legislation. As promised, the EU adapted its legislation on record-keeping, marking of firearms, deactivation of firearms, requirements for export, import and transit licensing or authorisation systems, strengthening of controls at export points and brokering activities.

Following the Commission's 2005 communication on measures for ensuring greater security in explosives, detonators, bomb-making equipment and firearms, EU law was reformed. The Council Recommendation of 12 and 13 June 2007 on 'a standard procedure in Member States for cross-border enquiries by police authorities in investigating supply channels for seized or recovered crime-related firearms' is improving tracing activities and law enforcement cooperation. Directive 2008/51/EC amends Directive 91/477/EEC on control of the acquisition and possession of weapons, in order to include new provisions to bring the legislation into line with the UNFP as regards intra-European Union transfers of weapons. Regulation No 258/2012 implementing Article 10 of the United Nations' Firearms Protocol governs export authorisations and provides for import and transit measures for firearms, their parts and components and ammunition.

Following the reforms of existing instruments and the adoption of new legislative measures, the EU is now able to ratify the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition.

### **The Protocol against the Illicit Manufacturing of and Trafficking in Firearms**

Four Member States have not yet signed, or participated in, the Protocol: 18 EU Member States have signed the Protocol and 16 Member States are contracting parties. The ratification of the protocol by the EU will make its provisions legally binding on all Member States within the limits of EU competence.

The Protocol aims to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition.

It calls for the criminalisation of: the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition; the falsification or illicit obliteration of the marking(s) on firearms, and, subject to the different legal traditions in the States Parties, of any attempts to commit or facilitate such an offence.

It provides for measures to confiscate or seize firearms which have been illicitly manufactured or trafficked and measures to prevent the illicit reactivation of deactivated firearms.

The States Parties must ensure that firearms are marked when manufactured, imported or transferred to another country, in order to enable the manufacturer, country and year of import to be identified.

Each State Party must also pledge to maintain, for at least ten years, all information in relation to firearms in order to be able to trace and identify them.

The Protocol calls on the States Parties to establish an effective and harmonised system of export and import licensing or authorisation, in addition to measures on international transit for the transfer of firearms and tighter controls on exports, export points and borders.

The Protocol encourages the exchange of information between States Parties through a single point of contact, in order to strengthen the capacity of states to prevent and detect illicit trafficking in firearms and to carry out investigations into such matters.

### **Rapporteur's observations**

The illicit trafficking in firearms, their parts and components and ammunition is also of benefit to criminal groups and terrorists, by providing them with another source of income and multiplying their destructive potential.

The Council and Commission Action Plan implementing The Hague Programme included a proposal relating to the conclusion – on behalf of the European Community – of the UNFP. The Stockholm Programme reaffirms that the Union should continue to promote the ratification of international conventions and their protocols, in particular those developed under the auspices of the United Nations, and states that arms trafficking is one of the illegal activities that is threatening the internal security of the European Union and needs to be dealt with as a matter of priority. Your rapporteur welcomes the fact that it is also one of the priorities cited in the Internal Security Strategy of the European Union and the Council conclusions of 7 June 2013 on the fight against organised crime.

Europol has always followed developments in this type of crime very closely, and its analyses enable light to be shed on the extent of illicit trafficking in firearms in Europe. A number of threat notices from Europol's Scanning, Analysis and Notification Team (SCAN) have already warned Member States of the extent of illicit trafficking in firearms and the risks it poses. A threat notice on 'An integrated EU approach against the illegal trafficking in heavy firearms' and an early warning brief on 'The Kalashnikov, its illegal sourcing, trade and use in Europe' were published in 2010 and 2012. The EU Serious and Organised Crime Threat Assessment (SOCTA), conducted by Europol in 2013, shows that criminal groups are using arms trafficking as a source of income: 39 crime groups were reported by 18 different countries as carrying out trafficking in firearms either as a main activity (25 groups) or as an additional activity (14 groups).

This Protocol will make it easier to prevent and combat illicit trafficking in firearms by better monitoring them through marking and import and export licensing or authorisation, and by strengthening cooperation and the exchange of information between States Parties.

Your rapporteur would stress, in particular, the vital importance of the exchange of information provided for in Article 12 of the protocol; crime knows no borders and we can only fight effectively against all forms of trafficking, such as trafficking in arms, if Member States cooperate even more than criminal networks. It is vital to exchange information on criminal groups, the methods, means and routes used, illegal firearms, manufacturers, traders, authorised importers and exporters, and best practices in the fight against firearms manufacturing and trafficking. There are a number of control instruments, such as marking and the import and export licensing and authorisation system. But these systems can only be truly effective if information is announced and shared.

Your rapporteur therefore strongly urges the Member States to step up their exchanges of information through the Europol EIS system, which is able to list, share and cross-match around 20 sets of data, including those relating to illicit firearms. Your rapporteur also welcomes the establishment of a focal point within Europol on illicit trafficking in firearms, to provide strategic and operational support to ongoing investigations.

The Protocol will thus help increase security for EU citizens without having an adverse effect on legal firearms users.

Your rapporteur therefore strongly recommends that it be ratified.