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From: Secretary-General of the European Commission, signed by Ms Martine
DEPREZ, Director

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To: Ms Thérèse BLANCHET, Secretary-General of the Council of the
European Union

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Subject: REGULATORY SCRUTINY BOARD OPINION
- Firearms trafficking directive

Delegations will find attached document SEC(2026) 102 rev.

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REGULATORY SCRUTINY BOARD OPINION

Firearms trafficking directive

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EUROPEAN COMMISSION
REGULATORY SCRUTINY BOARD

Brussels,
RSB

Opinion

Title: Impact assessment / Firearms trafficking Directive

Overall 2nd opinion: POSITIVE WITH RESERVATIONS

(A) Policy context

The EU has harmonised the legal market of firearms through the Firearms Directive and the Firearms Regulation. In 2014 the EU also ratified the UN Firearms Protocol. This initiative aims to establish a harmonised framework on illegal firearms-related crime.

(B) Summary of findings

The Board notes the improvements to the quality of the report regarding the problem analysis and transparency of data limitations.

However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:

- (1) The report does not sufficiently substantiate the problem description.
- (2) The report does not establish S.M.A.R.T objectives and does not sufficiently substantiate the causal links in the intervention logic.
- (3) The report does not sufficiently assess the impacts across the options. It does not sufficiently highlight the high degree of uncertainty regarding the expected benefits.

(C) What to improve

- (1) The reports should be transparent about the lack of data and should avoid uncorroborated claims as to the scale of the problem of cross-border trafficking of firearms. Suggested causal links should be supported by evidence and analysis.
- (2) In view of the identified evidence limitations regarding the relationship between incidents of illicit firearms trafficking and the severity of the related penalties or the low deterring effect of such low penalties the report should better demonstrate why penalty divergence is considered a significant driver. It should elaborate on Member States rationale and views for different maximum levels of penalties (such as views from Member States with low maximum penalties and relatively low incidents of illicit firearms trafficking). It should present evidence when different levels of penalties affected negatively cross-border co-operation, investigation and prosecution. Intervention logic in the report should better justify whether minimum levels of maximum penalties would reduce related illicit activities.
- (3) Given the scope of the intervention the report should only refer to data on and examples of firearms incidents for which the illicit nature of the firearms used is clearly established. Whenever such clarity is absent, it should be stated in the report.
- (4) The report should better explain why the problems beyond harmonised data collection and innovation cannot be sufficiently addressed by ensuring proper implementation of the existing legal framework. In this regard it should clarify why the current infringement strategy does not include pursuing grievances against Member States which have not implemented effective and dissuasive penalties according to Article 23 of the Firearms Directive while effective and dissuasive penalties are listed as a problem driver and a specific objective of the proposed intervention. It should also explain why and how the enforcement of the UN Firearms Protocol through infringements is uncertain.
- (5) In view of the mixed feedback from Member States the report should provide clear evidence regarding the lack of cooperation, e.g. number and character of cooperation requests rejected.
- (6) The report should incorporate the perspectives of key stakeholders and include the negative stakeholder feedback on the preferred option and the apparent preference for the non-legislative option.
- (7) Given the limited evidence available, the impacts analysis should more explicitly acknowledge the high degree of uncertainty surrounding the impacts of the presented options and the preferred option. Furthermore, the impact chapter would also benefit from outlining impacts of similar measures in other areas of EU legislation.
- (8) The report should provide a more detailed explanation for why the non-legislative policy option is deemed the least effective. The success of this option is contingent upon implementation costs and prioritization, whereas the estimated implementation costs for the option appears to be relatively low.
- (9) The report should make further efforts to quantify the regulatory costs across the policy options. It should better illustrate and justify the stark differences in efficiency between the different legislative options. Where not possible to quantify the report should better justify why.
- (10) The report should present S.M.A.R.T. specific and operational objectives and R.A.C.E.R. indicators that define success and capture the intervention's impact on the identified problems.

<u>(D) Conclusion</u>	
The DG must revise the report in accordance with the Board's findings before launching the interservice consultation.	
Full title	Firearms Trafficking Directive Directive of the European Parliament and the Council establishing minimum rules concerning the definition of criminal offences and sanctions in the area of illicit trafficking of firearms, their essential components and ammunition
Reference number	PLAN/2024/1181
Submitted to RSB on	13 October 2025
Date of RSB meeting	"Written procedure"



Brussels,
Ares(2025)

Opinion

Title: Impact assessment / Firearms Trafficking Directive

Overall opinion: NEGATIVE

(A) Policy context

The EU has harmonised the legal market of firearms through the Firearms Directive and the Firearms Regulation. In 2014 the EU also ratified the UN Firearms Protocol. This initiative aims to establish a harmonised framework on illegal firearms-related crime.

(B) Key issues

The Board notes the additional information provided and commitments to make changes to the report.

However, the Board gives a negative opinion because the report contains the following serious shortcomings that the lead Service must address:

- (1) The report does not sufficiently substantiate the scale or urgency of the problem with robust evidence. It does not show how the initiative articulates with the existing legal framework. It does not clearly identify and show the link between increased illicit activity and Member State divergence.
- (2) The report does not set out what success would look like in terms of reaching the specific objectives which are insufficiently S.M.A.R.T.
- (3) The report does not demonstrate the causal links between the options and objectives. It does not sufficiently clarify how minimum levels of maximum penalties would dissuade illicit activity and mitigate forum shopping.
- (4) The report does not adequately assess the economic and social impacts of the options. It does not quantify the costs of all options. The proportionality assessment is insufficient.

(C) What to improve

(1) The problem section should be better structured to clearly present evidence of the key problems and their drivers and the need for the legislative initiative. It should provide a more concise, evidence-based and focused problem analysis, clearly explaining the needs and magnitude of the problem, including why it cannot be sufficiently addressed by ensuring proper implementation of the existing legal framework. In this regard, the Russian war of aggression against Ukraine and its potential parallelism to significantly increased firearms trafficking in the wake of the Yugoslav conflicts in the 1990s should be more thoroughly explored. Additionally, it should more exhaustively outline the data availability and reflect whether and how far more and better data are a pre-requisite for an adequate analysis of the problem prior to proposing more consequential legislative action.

(2) The report should explain and substantiate why divergence among Member States is a problem. It should, for example, provide the numbers and types of discontinued investigations due to different legal definitions. Furthermore, it should provide solid evidence of offenders exploiting regulatory discrepancies among Member States. The report should better identify the reasons behind such divergences and clarify why certain issues cannot be effectively addressed at the Member State level. The report should consider relevant external factors driving the problems.

(3) The report should avoid making unsupported assertions. The report should be transparent about methodological limitations, in particular regarding causality and reflect that correlation is not sufficient to demonstrate causal links. Any suggested causal links, such as relationships between penalty levels and illicit activity, must be supported by evidence and a thorough causal analysis.

(4) The specific objectives should outline what the intervention aims to achieve, without prescribing the options or reiterating the problem. The report should present S.M.A.R.T. operational objectives and indicators that define success and capture the intervention's impact on the overarching problems.

(5) The report should better outline the content of the options. Regarding minimum levels of maximum penalties, it should explain how these levels will be determined and the evidence base for considering them dissuasive to illicit activity. Given that variability on penalties will remain, the report should discuss to what extent forum shopping can be addressed by the options. On minimum datasets, the report should clearly detail the range of data elements in scope.

(6) In order to enable a thorough assessment and comparison of the options, the report should conduct a consistent analysis of all substantial social and economic impacts, including quantification and monetisation where possible. If providing such estimates is not feasible the report should provide a reason why. The impact section should explain upfront the available evidence as well as its limitations.

(7) The impact assessment should estimate the costs across all options. To analyse the proportionality of the options, it should quantify and compare the costs between the broader legislative option and the corresponding costs under the preferred legislative option. Lastly, the proportionality assessment should demonstrate the extent to which the problems identified will be reduced by this intervention, while accounting for the costs introduced.

(8) The comparison of options is severely limited by the absence of substantiated analysis of impacts across the options. The report should build the comparison of options on quantitative and qualitative evidence giving a clear justification behind the scores.

Some more technical comments have been sent directly to the author Service(s) DG.

<u>(D) Conclusion</u>	
DG HOME must revise the report in accordance with the Board's findings and resubmit it for a final RSB opinion.	
Full title	Firearms Trafficking Directive Directive of the European Parliament and the Council establishing minimum rules concerning the definition of criminal offences and sanctions in the area of illicit trafficking of firearms, their essential components and ammunition
Reference number	PLAN/2024/1181
Submitted to RSB on	2 April 2025
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