



## **Country Situation Report - France FESAC Annual Conference 2016**

This year is the first time that reporting on the French situation is a difficult task. In spite of all that is happening in Europe with the EU wanting to change the status quo, there have been no developments relating to French legislation. It is the tragic events of Paris at the end of 2015 and those of Brussels at the beginning of 2016 which have left an indelible mark and a profound impact on our "small world of firearms collecting". Brussels is questioning all that has stood for years. However, it is in the absence of national developments that we draft our annual report.

### **EU problems**

For some time we believed that it was France which had pushed for the amendment of the Directive and that the William Tell committee turned against shooters with in the case of the B7 ban. However it now seems that the EU had created the problem and that the political game has done the rest. Nevertheless, our Interior Minister was "annoyed" by the opposition of these "lobbies of arms" that prevented Europe from getting on with its plans. There is from the famous press release in late March when the Minister discharged the responsibility of "concerns of shooters" on the William Tell committee. In short, all this political game is spectacular but not appreciated.

For reference, the Committee William Tell consists of target shooters, clay pigeon shooting, hunters, gunsmiths, gun manufacturers and ANTAC which is a defence association. The UFA has chosen not to join the Committee, to keep its independence of speech and action specific to collectors.

As for the rest, we have discussed the EU issue sufficiently well in our multiple exchanges of emails hence we do not need to elaborate more in this report.

### **The French disenchantment with the EU**

Our parents' generation which was tempered by two world wars that took place on its territory has ardently desired European integration as a requisite of peace and freedom. Over time, the French became aware that the European institutions have deviated from the intentions of the founding fathers; many collectors who are still convinced of the merits of the European project realised that their parents' dream had been betrayed and that, on matters of great importance in their life, totally unfavourable decisions can be taken on the whim of malicious and irresponsible European officials, as well as distant elected officials who feel that they are beyond electoral sanction. French collectors do not reject the European project, but they come to wish to see a review of its governance!

### **Non-regulatory developments.**

French collectors had been presented with the following new regulations in 2013:

- Pre-1900 applicable to the model and not to the date of manufacture,
- A Collector Permit limited to category C firearms- we did not manage to include categories A or B),
- Addenda list of pre-1900 firearms that will be classified as collectors' items.

Besides vintage firearms (that is a lot) the rest remained out. In the beginning we had many then nothing. There was another meeting in February to work on the implementation of the Collector's Pass. We have accepted something that we had refused until now: the issue of a recommendation for a collector's permit by a collector federation. This is a heavy responsibility but collectors understand the importance of this exclusive and special empowerment. It is essential to prevent bad apples from being introduced into the system.

However now everyone is waiting to know what will be decided in the EU with regards to collectors. Which categories will they be permitted to keep? A priori categories B, C and D. But will they be allowed to keep category A? What Europe decides will have to be applied.

### **Problems to be resolved.**

These boil down to three main issues: the collector permit, model definition and the decommissioning list. They totally relate to each other and should, ideally, be treated simultaneously by the ministry.

- The Collector Permit: we mentioned this before.
- The definition of the model: it is essential to know what the pre-1900 date includes. We refer to the appendix note of our report.
- The decommissioning list: it follows the model definition and the firearms that will be included in it will complement this definition. It will also be interesting to eliminate firearms available in large quantities. We have seen the story of the "Belgian Nagant": THE Belgian list was cancelled due to the Nagant revolver manufactured in Russia up to end of WWII and the quantity of this model available on the world market.

It is therefore essential that collectors enjoy the freedom to collect firearms, but that equitable limits are established to ensure that such firearms are not used by thugs or for self-defence.

### **A witch-hunt for collectors**

The dramatic attacks in Paris triggered the state of emergency. This permits searches outside the statutory schedules and many other actions that are not very pleasant for holders of legally held firearms. The state of emergency has already been renewed twice by Parliament. In terms of the results achieved it is a failure since 3,550 administrative searches (from November 2015 to April 2016) yielded only 743 firearms that were seized. However we are very critical of these seizures as often see collectors being harassed.

Almost daily, the press reports on arsenals seized from 'collectors' in the case of large quantities of arms and sometimes big quantities of explosives. And when we see the photos published by the press, there

is a reason to be angry. They are usually relics of firearms found on the battlefields, deactivated firearms antique firearms and replicas which are free of licence.

Lately, during an arms fair, they picked up a collector, his exhibits as well his entire collection at home. This was followed by threats of destruction by the court but a legal battle finally resulted in the court acquitting him and returning his collection. However in the meantime many firearms were stolen by various handlers during the process (officials, police, etc.). Therefore their return will be problematic.

### **The problem of deactivation**

Judging by the insignificant reaction of collectors in other member states, it appears that only French and British collectors have a poor opinion of the new EU Regulation which does not respect heritage artefacts.

This is possibly because in many others countries there exists a collector's status for keeping firearms of categories A and B in live condition or mandatory deactivation of firearms much later than 1900 (e.g. Malta and Hungary which date is 1945). In these fortunate countries deactivated firearms are not widespread while in France it is the only way to legally keep firearms from the two world wars which are nevertheless abundant on our soil.

Our association considered legal action in the European Court of Justice against the regulation but we were advised that a law suit would not have been accepted. In order to be admissible, an appeal must be made by a European citizen directly affected by the EU measure.

There is another solution which is possible: that a historian and professional expert of firearms seeks damages and interest from the EU because his collection is a work tool and that if he or his heirs wants to sell the firearms, the collection will be highly devalued and unable to serve as an object of study. But it obliges the individual to go to war alone and to pay procedural fees against a powerful enemy, assisted by lawyers paid moreover by our own taxes. We shall have the opportunity to discuss this option.

Thus, 2016 has been tarnished by several negative developments for gun owners. The positive fact is that FESAC has proven to be an effective fighting tool to defend our rights. It is important that it gets stronger to avoid that legal firearm owners' rights are threatened whenever the Directive is revised. This is an intolerable situation for persons who have a legitimate passion which should be enjoyed in serenity and in the long term.

We are sorry that you had to wait for our report but we believe that we had much to report on to the participants!

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## **The problem of the definition of pre-1900 model - French-style**

The new French law places all pre-1900 (model not date of manufacture) firearms into category D2. Logically, the word "model" should nevertheless correspond to something known and very precise. We French collectors will soon commemorate the three hundredth anniversary of the adoption of our first military weapon: the 1717 model rifle.

### **Military firearms**

In this case things should be clear since "model" normally refers to the year of adoption by the army.

However this is not always the case for some foreign firearms for which the word "model" refers to the date of purchase from one manufacturer of a batch of firearms of a model that has already been in use for several years. Sometime several years passed before a firearm was taken into service in other armed forces and the consequent introduction of its designation.

Furthermore, for budgetary reasons, many military firearms remained in service for several decades. Meanwhile, the army introduces changes or improvements. What should we consider for the classification of such firearms, the initial model or the year of improvement?

### **Civilian firearms**

If the determination of the model is not always easy for military firearms, it is even harder for civilian firearms. In this case should we consider as the date of the model:

- The date of filing of the original patent on which mechanism is based?
- The date of marketing (appearance in a catalogue if the patent is not known)?

In some cases, the strict application of the date of the concept could lead to a paradox in the classification of category D2 firearms widely manufactured in the 20<sup>th</sup> century, such as the Savage model 1899 rifle and others which are still manufactured to this day, such as the Marlin model 1895 rifle.

### **Conclusion**

Collectors must reach consensus and provide the authorities with a definition of the term "model", which preserves their interests while respecting concerns of public safety. It is important that the administration is disposed to decide quickly and clearly on this issue. The more time passes, the greater the number of collectors would have in the meantime acquired firearms that might be retrospectively classified in a more restrictive category (C or B).

In the case of firearms "overmatched" in category B only sport shooters may acquire within the limit of 12 category B firearms under the French law. Unable to hold them legally, some collectors would have to give away firearms purchased at very high prices (e.g. a Colt model Philippines in perfect condition commonly trading around € 3,500 in France) or keep them clandestinely.

## The solutions

There are three methods to determine the clearest concept for “model”:

1. Most liberal – considering only the original model or patent, regardless of subsequent changes. It is unlikely that the authorities would adopt it without restrictions given the current climate. This method is the most justifiable interpretation but it leads to concern about wide interpretation (e.g. the reference to the original mechanism of the new Colt Navy Model (1889) could be used to justify the applicability of the Colts commando of World War II!
2. Most restrictive - demanding the strict application of the date of design and taking as reference the date of the latest weapon developments. This solution would lead to absurd and unfair classifications of obsolete firearms (e.g. the modified Gras model 14 rifle). It would be bearable in combination with a clause allowing collectors to keep them under a derogation if they can provide the invoice proving the purchase before the new classification under category B.
3. A compromise – applying a strict interpretation of the date of design in tandem with the publication of a list of firearm models later than 1900, notwithstanding classified in category D2, in which would be included firearms that pose no danger to public safety, including amongst others various models of ambiguous classification, so far regarded as firearms of category D2.

*The model 1874 rifle Gras modified 14: it is simply a model 1874 rifle (Class D2) re-barreled to the cartridge 8 mm Lebel rifle (also in category D2), to retain an ammunition unit for the territorial units which had been equipped with model 1874 rifles at the beginning of the First World War, to compensate for the shortage in Lebel.*



- *Left : The Swedish Mauser Mle 1896, a category D2 weapon and competition rifle.*
- *Right : Carl Gustav 63 rifle equipped with a match barrel and sighting system mounted on a mechanism recovered from the Mauser 1896. Category D2 or C category ?*



- *Left : the 1886-1893 model Lebel rifle, an 8mm caliber weapon classified in category D2 to the delight of French collectors.*
- *Right : Carabine R35, which is only a Lebel rifle Model 1886-93 shortened in 1935, futile attempt to modernize our weapons without granting budgets: the defeat of 1940 is already predictable. The magazine located under the barrel was also shortened and contains only three cartridges! Category C or D2? Do we take as reference date in 1893 or 1935?*



Colt model 1892 revolver (weapon Category D2).



Colt model 1901 revolver has no significant mechanical difference with the 1892 model; an obvious difference is the addition of a strap ring. In this case, the term "model" probably is the date of a contract with the US Army. The ETBS currently ranks the weapon in category D2 and the revolver is freely marketed by French specialist antique dealers.



The Colt 'Philippines model ": it is a Colt 1878 model wide trigger-guard which the US Army has purchased a lot in 1902 to equip the troops engaged in the Philippines.

The date of the market, 1902, was hit on the carcass, so many collectors call "Model 1902" but it does not appear whether it is an official name. This misnomer justifies classifying the class B considering it as weapon after 1900? Certainly not!



Marking 1902 of the « Philippines model »



1900

1899

Browning model 1899 and the Browning model 1900, which is the version of mass production of the Model 1899. The Model 1900 is only different from the 1899 by a marking safety and butt plate attachment. Must we therefore consider the Browning model 1900 (still produced 700 000) as a category D2 weapon? This is not desirable



The Savage rifle model 1899 referring strictly to the model concept: this weapon whose production has continued for almost a century (until 1998 exactly) is classified in category D2. At the time of the drafting of statutory instruments implementing, we warned the administration proposing to add a notion of manufacturing date (1946). But she ignored that.



Marlin rifle model 1895 : powerful boar hunting rifle (.45-70 caliber) still mass produced and currently available in all the armories. Gunsmiths sell it in general as a Category C weapon While, as explained above, the texts classify this rifle in D2.

Finally, an extreme case: the semi-automatic rifle Charlton is theoretically a Class B weapon.

To face the Japanese invasion, this rifle was produced in 1941 in small amounts in New Zealand by reusing downgraded Lee- Metford mechanisms.

Prior to 1900 model, the Lee-Metford is a category D2 weapon: The Charlton semiautomatic must it follow the same ranking? Our opinion is clearly yes because not more than four or five copies of this weapon in the museums of the Commonwealth did survive.



Study of the models realized by Luc Guillou