



Government of the Netherlands



Modify the Pyro Directive to Protect Public Order and Safety

A collaborative non-paper between the Netherlands and France

Originally used as a means of entertainment, pyrotechnics have been misused in a number of ways over the last few years, sometimes becoming instruments of public disorder or weapons used in urban combat against internal security forces. Moreover, in recent years in the Netherlands, there has been a notable increase in the use of explosives that are made from the flash powder of fireworks. These explosives are frequently employed in criminal activities, including attempted murder/homicide, attacks, smash-and-grab burglaries, threats, and arson, all linked to criminal groups and organized crime. Also, the use of pyrotechnics is an ongoing problem at soccer games inside and outside the stadium. Indeed, the extent and frequency of improper use of certain types of fireworks within a soccer context is extensive. In France, pyrotechnics have been used as weapons to assault and harass security forces in coordinated attacks. One of the most recent examples in France is the attack on the police station in La Courneuve, in the outskirts of Paris. This issue transcends national borders as each country has its own challenges. Over the last years, "fireworks" and pyrotechnics have taken center stage and caused serious security problems.

Furthermore, the safety and quality of articles entering the European single market is paramount, particularly for pyrotechnic articles, as they have inherently dangerous properties. The existing EU Directive on pyrotechnic articles (2013/29, 'Pyro Directive') provides for a number of conformity assessment procedures. However, the functioning of the CE marking system (including some of the modules therein) as currently organized, is inadequate. Manufacturers and importers do not sufficiently test the fireworks they bring onto the market. Moreover, most of these tests are carried out by notified bodies in Asia; oversight of the quality of these laboratories appears to be inadequate. This means that members of the public cannot assume that fireworks bearing a CE marking are safe and therefore they run an undue risk when setting off fireworks.

We, the Netherlands and France, join forces and propose a coordinated response at the European level. This position paper makes recommendations aimed at public order, safety improvement and strengthening the approach to the illicit trade and misuse of professional (explosive) fireworks.

Strengthen the EU Laws and Regulation

1. Ensure Compliance with EU Directives

To ensure uniform compliance with Directive 2013/29/EU, and to verify compliance by initiating procedures and auditing notified bodies in all Member States, to ensure that EU standards are fully applied and that classifications are appropriate regarding the serious breaches identified on safety, we expect the European Commission to fully ensure compliance with EU Directives (i.e. adopting implementing act according to 2019/1020, use article 32 of directive 2013/29 etc.).

2. Strengthen Conformity Procedures

Strengthening the conformity procedures in the Pyro Directive prevents pyrotechnic articles that do not meet the safety and quality requirements, to be brought on the European market. The procedures in the Pyro Directive should be modified to make sure that products are produced and tested properly, and no conflicts of interests are involved.

3. Implement Control Measures for More Transparency

To enhance the transparency of trade flows and, in turn, to improve the tools for enforcement against illegal trade, it should be possible to employ safeguards and conditions and control measures, similar to other directives such as Directive 2014/28.

4. *Consider implementing the Pyro-Pass Across the Entire EU*

The pyro-pass is currently being implemented in Belgium, Luxemburg and the Netherlands. Through the pyro-pass, market participants are required to verify whether individuals purchasing specific types of pyrotechnic articles possess the required specialized knowledge. The introduction of the pyro-pass not only streamlines the internal market, but also obstructs the diversion of fireworks into the illegal market. Furthermore, it provides competent authorities with an additional tool to address vendors deliberately selling fireworks to non-professionals.

5. *Systematize Criminal Liability*

To systematize the criminal liability of social networks, marketplaces and online merchants (such as eBay), which enable the unwarranted acquisition of fireworks, as an accomplice in providing the means.

6. *Enforce Product Restrictions*

Ban on flash bangers (NL) The misuse of flash bangers and ground salutes (1.1G materials) by organized gives rise to significant safety issues mentioned earlier. Products with limited demand within the professional fireworks industry are currently being produced, imported, transported and traded, partially to cater to organized crime. A ban on the production of professional (explosive) fireworks such as flash bangers is necessary to protect society and combat their misuse by organized crime (flash bangers are used as homemade grenades or explosives).

Modify the composition of F4 items, which contain an average of 100g of flash powder, whereas 10g of powder are necessary and sufficient for professional use. In addition, we call for a legally set limit on the amount of gunpowder and flash powders allowed in pyrotechnical items from F3, T1, T2, P1 and P2. Presently, there is no prescribed maximum limit on the quantity of gunpowder or flash powder in the Pyrotechnics Directive. Discussions should be held with professionals in the sector.

Reinforce collaboration between Member States

7. *Set Up a Centralized System*

Ideally, information about the trade flows and suspicious transactions should be recorded in a centralized system accessible to supervisory authorities in various member states. For example, France has introduced PIXAF, an investigation center responsible for providing support to units in investigations relating to weapons and explosives. PIXAF has been the national contact point for collecting reports of suspicious transactions, disappearances and major thefts of explosives and precursors.

8. *Support Cooperation and Information Exchange*

Facilitate the exchange of information between Member States, in particular in order to obtain an accurate picture of the situation in the EU and to detect and combat trafficking in pyrotechnic articles (targeting of organizations, analysis of product composition, border seizures).

Cooperation and sharing of information between regulatory bodies within the European Union is also of utmost importance when it comes to safeguarding the safety and quality of the products that are brought on the EU market. It can be difficult for these bodies to collaborate efficiently and effectively because the way oversight is organised differs among EU countries. Stepping up oversight, working together and sharing information gives regulatory bodies a stronger position. Market surveillance authorities of all Member States should be involved in the process. Problems that arise in Member States should be addressed by other Member States or by the European Commission as a watchdog (see also under 1). Where possible, joint testing could ensure a uniform approach and uniform interpretation of test results. Joint testing – if possible for example through a shared testing centre – could lead to cost efficiency, and could also simplify the sharing of information and expertise and lower the threshold for fireworks testing by regulatory bodies.