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(straw purchasers)

UFIARM | Specialised Prosecution Unit for the Investigation of Offences relating to Firearms, Explosives and other Controlled Substances

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Specialised Prosecution Unit for the Investigation of Offences relating to Firearms, Explosives and other Controlled Substances (UFIARM)

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I. RISK INDICATORS RELATED TO FRONT MEN FOR FIREARMS

Over the past year, UFIARM has identified and categorised a phenomenon that is usually described as *the improper transfer* or *illegal sale of firearms* and which, according to the typology of diversion developed by the UNODC, falls within the category of *firearms frontmen*.[1]

It should be clarified that the term *'firearms front man'* does not refer to a separate criminal offence, but rather to an operational category of criminal analysis that enables the identification of schemes which, under various legal frameworks, share a common pattern of diversion of controlled material.

In this typology, *'straw purchases*' are described as transactions in which an authorised individual – in the Argentine context, a legitimate user – acquires firearms legally but subsequently transfers them unlawfully to another person.[2] Within the UFIARM, the term *'front men'* is used to refer to those who carry out these diversions, given that, in the eyes of the regulatory body – the National Arms Register (RENAR) – the firearms formally remain in the legal possession of a legitimate user, even though in practice they have already entered the illegal circuit, both domestically and internationally.

In this way, the person authorised to acquire and possess firearms uses their authorisation with the Argentine National Arms Register to purchase weapons for the benefit of third parties who are unable – or unwilling – to obtain such permits.

This type of manoeuvre has been detected in relation to both firearms and ammunition. In this document, however, the analysis will focus on the former, whilst making a brief observation on the latter, given that firearms have a traceability and tracking system – via the serial number – which allows, at least potentially, the weapon's trajectory to be reconstructed throughout its useful life.

The phenomenon of gun frontmen creates a *'legal laundering'* effect by inserting a formally legitimate link into the chain of acquisition, which hinders criminal traceability and undermines the preventive function of the state registration system.

Furthermore, there have been cases in which certain individuals have lodged complaints regarding their own registration status, stating that firearms appear under their name which they are completely unaware of having acquired. In principle, in such cases there would be no voluntary act

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1. UNODC, *Illicit Firearms Trafficking – Addressing the Criminal Side of Diversion,* Vienna, 2024, available in English at https://www.unodc.org/documents/firearms-protocol/2024/Diversion_Issue_Paper_ENG_web.pdf.
2. Ibid., p. 14.

on the part of the individual to participate in the scheme, nor any intention to act as a front man for third parties. Nevertheless, as a first step, it is necessary to analyse the possible forgery of public documents intended to make these individuals appear as owners of firearms they never possessed nor intended to possess.

However, if the authenticity of the documentation submitted to obtain possession of the firearms in question were to be established, and notwithstanding the possible falsity of the declaration, the conduct could ultimately fall within the concept of *acting as a front for firearms*.

The risk indicators shared here relate primarily to the situation of potential 'wilful' front men for firearms, and not to those who are victims of manoeuvres beyond their control, designed to place weapons held by third parties in their name.

The first paragraph of paragraph 4 of Article 189 bis of the National Criminal Code sets out the basic offence of the unlawful transfer of firearms and provides for a prison sentence of one (1) to six (6) years for anyone who transfers a firearm, by whatever means, to a person who fails to prove their status as a legitimate user. Given that the law makes no distinction regarding the circumstances in which the transfer takes place, legal doctrine is unanimous in stating that this may occur on any basis—that is, whether free of charge or for consideration—encompassing a wide range of possible actions in this regard, such as sale, hire, donation, loan for use, loan or gift.[3] It is sufficient for the perpetrator to be aware that the recipient of the firearm is not a legitimate user and to act with the intention of doing so. This is because the country has not yet specifically legislated on the criminal offence of domestic and international trafficking in firearms, components and ammunition.

The main difficulty in proving the offence lies in demonstrating that the person handing over the weapon was aware that the recipient lacked the requisite authorisation, an essential subjective element of the criminal offence.

The criminal offence makes no mention of the perpetrator's motives; consequently, it has been argued that 'the perpetrator's purpose in handing over the firearm is irrelevant, as the conduct constitutes the offence if the circumstances listed in the provision are met'.[4]

Furthermore, the criminal offence penalises the transfer free of charge or the sale and purchase of firearms between private individuals not authorised by the relevant administrative authority. The perpetrator may be any person: a legitimate user, holder or carrier, or otherwise.

The provision also includes an aggravating circumstance that imposes a more severe penalty if "the illegal supply of firearms is carried out as a habitual activity", which rules out the possibility that the basic offence covers

3. GONZÁLEZ DA SILVA, G. (ed.), *Treatise on the Illicit Trafficking in Arms and Related Offences in the Domestic and Global Context*, 1st ed., Ad-Hoc, vol. II, Buenos Aires, 2024, p. 349.

4. Ibid., p. 354, citing PÉREZ, Alejandra, 'Offences against public safety', in D'ALESSIO, Andrés J. (ed.) and DIVITO, Mauro (coord.), in *The National Criminal Code: Commented and Annotated*. Special Part, La Ley, Buenos Aires, 2004, Vol. II, p. 916, citing the ruling of the National Court of Criminal and Civil Appeals (CNCyC), Chamber 1, 22 September 2006, "Héman-dez, Pablo Raúl", LL online.

exclusively to sellers authorised to operate a gun shop (who, were they to act in this manner, would face a more severe penalty)[5] and also covers the conduct of so-called 'bolseros': those who supply, whether by way of hire or sale, to both private individuals and organised crime, illegal firearms or ammunition of a similar nature, intended for the commission of other offences.

Whilst the use of a front man could, in principle, be classified as an unauthorised transfer, in most cases this is not an isolated incident, but rather a complex scheme involving various actors who conspire to ensure that legitimate users acquire weapons on behalf of others. This complexity is evident in the fact that, in many cases, the individuals involved are legitimate users with limited financial resources who acquire a quantity of controlled material – sometimes within a short period of time – without demonstrating sufficient financial capacity.

A lack of financial means may constitute a relevant indicator when assessing whether the offence is habitual or committed with intent to make a profit, aggravating circumstances provided for in the Criminal Code.

This scheme is often accompanied by subsequent reports of alleged thefts or robberies, intended to justify to the authorities the absence of the items in their possession. In most cases, they never actually possessed the items, as the original intention was not to acquire the weapon for their own use, but to enable people barred from accessing the legal market – for example, due to a criminal record or membership of criminal organisations – to obtain the items through a formal channel.

Against this backdrop, the role of the firearms front man presents various aspects that may overlap with that of unauthorised supply.

The first is the forgery of a public document (Article 293, Criminal Code), as the purchaser declares that they are buying the firearm for themselves, specifying a storage location that does not in fact exist as such. The second is that of criminal association (Article 210, Criminal Code), given that these schemes typically involve multiple individuals – the actual owner, the front man, intermediaries, agents or even commercial users – acting with a common criminal purpose.

The third relates to smuggling (Article 867, Customs Code) when the diverted firearm is illegally transferred outside the national territory.

These offences may apply on a case-by-case basis, depending on the circumstances of the case and the establishment of the relevant subjective elements, without prejudice to possible complicity in offences committed by the actual owner of the material (Articles 45 et seq., Criminal Code) or the concealment of their activities (Articles 277 et seq., Criminal Code).

5. Article 189 bis, paragraph 4, of the Criminal Code: "If the offender makes the illegal supply of firearms a habitual activity, the penalty shall be four (4) to fifteen (15) years' imprisonment. If the person guilty of any of the acts referred to in the three preceding paragraphs holds a licence to sell firearms, they shall also be subject to absolute and perpetual disqualification from holding public office, and a fine of TEN THOUSAND PESOS ($10,000.-)"

The purpose of this document is to focus not on isolated instances of improper supply, but on complex, repeated and coordinated schemes involving multiple actors – beyond the front man and the actual owner of the equipment – including, amongst others, gun shops, intermediaries, agents and, in particular, criminal organisations that obtain equipment that is legal in origin through this mechanism.

These are not, therefore, isolated incidents, but rather established networks designed to sustain a clandestine supply chain for arms and ammunition over time. In many cases, there is evidence of a common intent amongst the participants, aimed at repeatedly carrying out such illicit manoeuvres.

Against this backdrop, UFIARM has been systematising the information gathered during its investigations, with the aim of identifying patterns in *modus operandi*; based on these, it has drawn up a non-exhaustive list of **risk indicators**.

The indicators detailed below do not in themselves constitute presumptions of illegality, but rather warning signs which, taken together or when recurring, may justify further criminal or administrative investigation.

These indicators are intended to assist criminal investigations where there are indications of a potential diversion of firearms to the illegal market, suggesting the greater or lesser likelihood that the activity under scrutiny forms part of a more complex network for supplying controlled materials to unauthorised persons.

In some cases, a single piece of evidence may justify extending the investigation; in others, the accumulation of several such indicators will increase the likelihood that the scheme in question goes beyond the scope of Article 189 bis, paragraph 4, of the Criminal Code.

In any event, UFIARM stands ready to assist with investigations relating to potential *fictitious purchases* and the use *of front men in firearms transactions*.

This collaboration may include both the provision of specific information and background details on similar cases detected in other jurisdictions, and the provision of technical expertise or advice on traceability, ballistic analysis, registration documentation and data cross-referencing between national and international bodies.

Furthermore, the Unit may assist in drafting requests, coordinating expert assessments and maintaining informal links with foreign arms control agencies and multilateral organisations (UNODC, INTERPOL, ATF, amongst others) where the case so requires.

Its aim is to strengthen ongoing investigations and ensure a consistent response to the various patterns of diversion of controlled material detected within the national territory.

II. RISK INDICATORS

A. Indicators relating to the reported address or place of storage

01. The legitimate user (LU) cannot be located by the control agency to carry out an inspection at their address; and/or

02. The regulatory body verifies that the address does not exist; and/or

03. The regulatory body verifies that the user has moved and their whereabouts are unknown; and/or

04. The regulatory body arrives to carry out an inspection and the user does not have the weapons where they stated they would keep them; and/or

05. The declared storage location is incompatible with the user's activity or lifestyle – for example, addresses lacking security infrastructure or without the physical space required for the declared storage.

B. Indicators relating to the ability to pay tax

01. Whilst the licence holder demonstrated a lawful means of livelihood at the time of applying for the licence, subsequent circumstances – such as redundancy or deregistration for tax purposes – may indicate an inability to pay tax in relation to the type and quantity of controlled substances acquired; or

02. The means of livelihood provided does not reflect sufficient financial capacity in relation to the volume or type of controlled material; and/or

03. It is established that the purchases were paid for or financed by persons other than the LU, without documentary evidence of the relationship between them.

C. Indicators relating to the quantity and type of firearms and/or ammunition acquired

01. The LU acquires an unusually high number of firearms within a short period; and/or

02. The LU acquires weapons with similar or repetitive characteristics; and/or

03. The LU identifies as a firearms collector and acquires a number of firearms of the same make, model or calibre; and/or

04. The LU is in possession of a significant quantity of ammunition which they acquired, allegedly for training, practice, sport or hunting, and did not use it despite having stated in their documentation that they had done so; and/or

05. The LU acquires various firearms of different categories (for example, civilian and military) without any functional or sporting justification.

D. Indicators relating to the whereabouts of firearms

01. The LU repeatedly reports thefts or robberies of firearms; and/or

02. The LU cannot account for the current location of registered firearms; and/or

03. The firearms are found to be involved in other criminal offences and/or

04. Specifically, one or more firearms are seized during an investigation linked to drug trafficking, a form of crime closely linked to arms trafficking, both domestically and internationally; and/or

05. The LU shows delays or inconsistencies in the mandatory notifications of transfer, destruction, loss or theft to the supervisory body.

E. Indicators relating to acquisition or transfer procedures

01. The LU procures equipment from a small group of LUs or commercial users (UCOMs); and/or

02. The LU purchases equipment from UCOMs based in distant jurisdictions; and/or

03. The LU carries out all procedures through the same agent or representative; and/or

04. The LU provides details belonging to a third party on contact forms – email, telephone, etc.; and/or

05. The documentation contains irregularities – such as an illegible signature or a lack of proof of identity; and/or

06. Forms – whether completed in person or electronically – are found to contain handwriting, fingerprints or

that match across different LUs, suggesting the involvement of the same person or agent acting on behalf of several; and/or

07. In procedures carried out digitally, similar patterns of repetition may be observed in computer data – such as IP addresses, devices used, matching geographical locations or consistent times of access – which suggest that a single person or group is handling the volume of applications from different users, even when each procedure appears to have been individually validated by the system.

F. Indicators linked to potential smuggling

01. The LU records a striking number of departures from the country, particularly to the same destinations or to destinations close to one another; and/or

02. The LU records departures from the country on dates close to the acquisition of the material; and/or

03. The LU or persons linked to it register parcels, consignments or international courier movements to or from countries – particularly neighbouring ones – on dates close to the acquisition of weapons or ammunition.

G. Indicators of relationships or cross-links between different LUs

01. 1. Matching addresses, telephone numbers or email addresses amongst several LUs; and/or

02. 2. LU's that share the same manager or authorised representative in successive procedures; and/or

03. 3. Legal Entities that transfer weapons to one another within short periods; and/or

04. 4. Legal entities that appear as complainants or witnesses in cases linked to one another.

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