 Republic of the Philippines

National Police Commission

Philippine National Police

CIVIL SECURITY GROUP

**FIREARMS AND EXPLOSIVES OFFICE**

Camp Crame, Quezon City

**ANSWERS TO**

**QUESTIONNAIRE**

**Human Rights Council resolution 29/10 on**

**“Human rights and the regulation of**

**civilian acquisition, possession and use of firearms”**

1. Does your country have regulations regarding the acquisition, possession and use of firearms by civilians? Please provide information on relevant legislation, regulations, administrative procedures, policies or any other measures in this regard.

*Yes. The acquisition, possession and use of firearms by civilians is governed mainly by Republic Act No. 10591 and its Implementing Rules and Regulations (IRR), entitled: An Act Providing for a Comprehensive Law on Firearms and Ammunition and Providing Penalties for Violations Thereof” otherwise known as “Comprehensive Firearms and Ammunition Regulation Act” approved May 29, 2013.*

1. Does your country have specific regulations regarding the acquisition, possession and use of firearms by private security companies? Please provide information on relevant legislation, regulations, administrative procedures, policies or any other measures in this regard.

*Yes. Regulations on the acquisition, possession and use of firearms by private companies are governed by RA 10591 and RA 5487 entitled An Act To Regulate The Organization And Operation Of Private Detective, Watchmen Or Security Guards Agencies June 21 1969 and the 2003 Revised Rules and Regulations Implementing (IRR) of RA 5487 as amended.*

1. Does your country have regulations that restrict or prohibit the import and export of firearms or certain types of firearms intended for civilian use? Please provide information on relevant legislation, regulations, administrative procedures, policies or any other measures in this regard.

*Yes. RA 10591 and its IRR*

1. Has your country undertaken any regional or international commitment(s) related to the regulation of civilian acquisition, possession or use of firearms? If so, please list them and give any relevant details.
* *The Philippines is a signatory to the Arms Trade Treaty, and manifest its commitment to the UN Programme of Action (UN PoA) to Prevent, Combat and Eradicate the Illicit Trade in SALW in all its Aspects, the International Tracing Instruments and Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition where some provisions of said instruments tackle civilian acquisition, possession or use of firearms such as in the aspect of record keeping and tracing.*

1. What are the types and characteristics of firearms to which civilians can lawfully have access? Are there any limits on the number of firearms which civilians may own? Please provide details of each.

*Pursuant to Section 10 of RA 10591, only small arms may be registered by licensed citizens or licensed juridical entities for ownership, possession and concealed carry.*

*Yes, there are limits on the number of firearms that civilians may possess. Pursuant to Section 9.1 of the IRR of RA 10591, a qualified individual based on the findings and recommendations of the FEO may be issued any of the licenses hereunder mentioned:*

1. ***Type 1 license*** *– allows a citizen to own and possess a maximum of two (2) registered firearms;*
2. ***Type 2 license*** *– allows a citizen to own and possess a maximum of five (5) registered firearms;*
3. ***Type 3 license*** *– allows a citizen to own and possess a maximum ten (10) registered firearms;*
4. ***Type 4 license*** *– allows a citizen to own and possess a maximum of fifteen (15) registered firearms; and*
5. ***Type 5 license*** *- allows a citizen, who is certified gun collector, to own and possess more than fifteen (15) registered firearms.*
6. Please provide information on how firearms are categorized according to risk factors and how they are legally classified.

*Under RA 10591 and its IRR firearms are categorized into two (2) category Small Arms and Light Weapons defined as follows:*

***Small Arms*** *- refer to firearms intended to be primarily designed for individual use or that which is generally considered to mean a weapon intended to be fired from the hand or shoulder, which are not capable of fully automatic bursts of discharge, such as:*

 *Handgun- is a firearm intended to be fired from the hand, which includes:*

* 1. *Pistol - is a hand-operated firearm having a chamber integral with or permanently aligned with the bore which may be self-loading; and*
	2. *Revolver - is a hand-operated firearm with a revolving cylinder containing chambers for individual cartridges.*

*Rifle - is a shoulder firearm or designed to be fired from the shoulder that can discharge a bullet through a rifled barrel by different actions of loading, which may be classified as lever, bolt, or self-loading; and*

*Shotgun - is a firearm designed, made and intended to fire a number of ball shots or a single projectile through a smooth bore by the action or energy from burning gunpowder.*

***Light Weapons*** *are: Class-A Light weapons which refer to self-loading pistols, rifles, carbines, submachine guns, assault rifles and light machine guns not exceeding caliber 7.62MM which have fully automatic mode; and Class-B Light weapons which refer to weapons designed for use by two (2) or more persons serving as a crew, or rifles and machine guns exceeding caliber 7.62MM such as heavy machine guns, handheld under barrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank missile and rocket systems, portable launchers of anti-aircraft missile systems, and mortars of a caliber of less than 100MM;*

1. Who may lawfully possess firearms in your country? Please provide information on (a) whether civilians are required to hold a license or a certificate in order to acquire, own/possess or use a firearm, and (b) what are the minimum requirements for the issuance or renewal of license or a certificate to acquire, own/possess or use firearms.

*SEC. 10 of RA 10591, Firearms That May Be Registered. – Only small arms may be registered by licensed citizens or licensed juridical entities for ownership, possession and concealed carry. A light weapon shall be lawfully acquired or possessed exclusively by the AFP, the PNP and other law enforcement agencies authorized by the President in the performance of their duties: Provided, That private individuals who already have licenses to possess Class-A light weapons upon the effectivity of this Act shall not be deprived of the privilege to continue possessing the same and renewing the licenses therefor, for the sole reason that these firearms are Class “A” light weapons, and shall be required to comply with other applicable provisions of this Act.*

1. *Civilians are required to have a License to Own and Posses Firearm (LTOPF) for him/her to be authorized to acquire, own/possess or use a firearm. This is a pre-requisite prior to application for the Registration of Firearm(s).*
2. *The minimum requirements are the following:*

***QUALIFICATION***

*In order to qualify and acquire a license to own and possess a firearm or firearms and ammunition, the applicant must be: a) a Filipino citizen; b) at least twenty-one (21) years old at the time of the filing of his/her written application to own and possess a firearm or firearms; (c) has gainful work, occupation, or business or has filed an Income Tax Return (ITR) for the preceding year as proof of income, profession, business or occupation.*

***REQUIREMENTS***

* 1. *Filled-Out Application Form (notarized)*
	2. *Clearances issued by the Regional Trial Court (RTC) and Municipal/Metropolitan Trial Court (MTC) that has jurisdiction over the place where the applicant resides and/or the Sandiganbayan as the case may be, showing that he/she has not been convicted by final judgment of a crime involving moral turpitude or that he/she has not been convicted or is currently an accused in any pending criminal case before any court of law for a crime that is punishable with a penalty of more than two (2) years;*
	3. *Neuro-psychiatric clearance issued by the PNP Health Service and its accredited psychologist or psychiatrist;*
	4. *A certification that the applicant has passed the drug test conducted by PNP Crime Laboratory or any accredited and authorized drug testing laboratory or clinic.*
	5. *A certification that the applicant has passed a gun safety and responsible gun ownership seminar which is administered by the PNP or a registered and authorized gun club;*
	6. *National Police Clearance;*
	7. *NSO Birth Certificate;*
	8. *Proof of Latest Billing;*
	9. *At least two valid IDs (one Government issued ID);*
	10. *Income Tax Return (ITR), Certificate of Employment, Business permit or any appropriate document as proof of income;*
	11. *For Government Employee (Copy of Appointment Order, Oath of Office);*
	12. *For Military Reservists (J9 Clearance);*
	13. *For Overseas Filipino Worker (OFW) (Certificate of Employment); and*
	14. *Retired Government Employee (Retirement Order or appropriate document).*
1. For what purpose does the domestic legislative or regulatory framework allow civilians to have access to firearm(s)? Can civilian carry firearms in public places?

*Pursuant to Section 2 of RA 10491, “It is the policy of the State to maintain peace and order and protect the people from violence. The State also recognizes the right of its qualified citizens to self-defense through, when it is the reasonable means to repel unlawful aggression under the circumstances, the use of firearms. Towards this end, the State shall provide for a comprehensive law regulating ownership, possession, carrying, manufacture, dealing in and importation of firearms, ammunition or parts thereof, in order to provide legal support to law enforcement agencies in their campaign against crime, stop the proliferation of illegal firearms or weapons and the illegal manufacture of firearms or weapons, ammunition and parts thereof.”*

*An individual who wishes to carry firearm outside his/her residence is required to have a Permit To Carry Firearms Outside Residence (PTCFOR). There are restrictions in having a PTCFOR as follows:*

1. *Display of firearms is prohibited. The firearms must always be concealed; Violation of this provision shall be subject for immediate revocation of the License to Own and Possess Firearms and Firearm Registration.*
2. *The firearm must be secured inside a vehicle or a motor cycle compartment.*
3. *PTCFOR is non-transferable;*
4. *The firearm shall not be brought inside places of worship, public drinking and amusement places and all other commercial or public establishment.*
5. *The PTCFOR-LEA (Law Enforcement Agencies) must be carried together with the valid Memorandum Receipt/Acknowledge Receipt of Equipment, or Mission Order/letter order as the case may be.*
6. *Expired, revoked, cancelled, or nullified License to Own and Possess Firearm and firearm registration will automatically invalidate the corresponding PTCFOR-LEA.*
7. What are the conditions for possession of firearms by civilians (e.g. safe storage requirements, reporting of theft or loss of firearm)?

Conditions for possession of firearms by civilians are in reference to the following provisions in the IRR of RA 10591:

*Section 9.3 Application for gun collector’s license shall be done as pre-*

 *requisite for acquiring Type 5 License to Own and Possess*

 *Firearms.*

 *Section 9.4 For Types 1 to 5 licenses, a vault or container secured by*

 *lock and key, or other security measures appropriate*

 *under the premises imposed by the FEO, as a*

 *prerequisite for the approval of the license or registration,*

 *shall be required.*

 *Section 9.5 For Type 5 license, the applicant must prove through*

 *appropriate documents or records the fact of his/her being*

 *a certified gun collector.*

*Section 9.6 For Types 3 to 5 licenses, the licensed citizen must comply*

 *with the inspection requirements of the PNP. Failure on*

 *their part to comply with any of the requirements herein*

 *mentioned is a ground for the cancellation of license*

 *and/or registration.*

*Section 10.4 Conversion of a registered Class-A light weapon to small*

 *arm may be allowed upon the approval of the Chief, PNP*

 *through the FEO. Conversion shall be done by the*

 *licensed gunsmith or authorized manufacturer*

 *supervised by authorized representative of the FEO. The*

 *firearm parts that were removed (which contribute to the*

 *full automatic characteristic/mode of the firearm) shall be*

 *turned-over to the FEO for final disposition*

*Section 10.6 Failure to renew the registration of a Class-A light*

 *weapon or comply with the standards and requirements*

 *for renewal purposes shall be a ground for the*

 *cancellation of the registration. In case of revocation of*

 *license and cancellation of registration, the individual*

 *concerned shall surrender the weapons herein mentioned*

 *to the nearest police station within thirty (30) days, except*

 *when there are other justifying circumstances. Otherwise,*

 *he/she could be charged for violation of the law.*

***Section 19.3 -*** *Failure to renew a license or registration within the period stated above on two (2) occasions shall cause the holder of the firearm to be perpetually disqualified from applying for firearm license. In meritorious cases, however, the Chief PNP, as recommended by the Chief, FEO, may allow the further enjoyment of the privilege under these rules subject to certain conditions which may be deemed appropriate to impose.*

***Section 19.4*** *- It shall be the obligation of the licensee thereof to surrender the said firearm to the police office or station with jurisdiction over the place where he/she resides within fifteen (15) days. Failure to surrender within such period shall cause the filing of appropriate charges for violation of the law.*

 ***Section 26. Death or Disability of the Licensee***

* 1. *Upon the death of the licensee, the privilege of his/her license to own or possess firearms and the registration of the firearm automatically expires.*
	2. *In case of legal disability, the privilege provided for by a license to own or possess firearms and the registration of the firearm shall be revoked.*
	3. *When a licensed citizen with registered firearm dies or become legally disabled, his/her next of kin, nearest relative, legal representative, or any other person who shall knowingly come into possession of the registered firearm shall cause the delivery of the same to the FEO or Police Regional Office or through the nearest police station which has jurisdiction over the licensee and/or the registered firearm.*
	4. *In case of death or legal disability of the licensee, the next of kin, nearest relative, legal representative or any other person who shall knowingly come into possession of the registered firearm shall register the firearm/s provided he/she meets the standard requirements and qualifications in accordance with RA 10591 and its IRR.*
	5. *Upon presentation of the proof that the individual is the next of kin, nearest relative, legal representative or other persons who shall knowingly come into possession of the firearm or ammunition of the deceased or legally disabled licensee, he/she may apply for the issuance of a License to Own and Possess Firearm and the transfer of the registration of the firearm under his/her name.*
	6. *Pending the issuance of the license to the applicant, the registered firearm of the deceased or legally disabled licensee shall remain under the custody of the FEO or the PRO which has jurisdiction over the licensee and/or the registered firearm. In the event that there is no qualified applicant, the Chief, PNP through the FEO shall dispose the firearm in accordance with the rules set forth for this purpose.*
	7. *Failure to deliver the firearm or ammunition within the six (6) months after the death or legal disability of the licensee shall render the possessor liable for illegal possession of the firearm.*
1. Is there a system to keep a record of firearms acquired or owned by civilians?

*Yes.*

1. What are the conditions for the transfer of ownership of firearms between civilians?

*SEC. 21. Acquisition or Purchase and Sale of Firearms and Ammunition. – Firearms and ammunition may only be acquired or purchased from authorized dealers, importers or local manufacturers and may be transferred or sold only from a licensed citizen or licensed juridical entity to another licensed citizen or licensed juridical entity: Provided, That, during election periods, the sale and registration of firearms and ammunition and the issuance of the corresponding licenses to citizens shall be allowed on the condition that the transport or delivery thereof shall strictly comply with the issuances, resolutions, rules and regulations promulgated by the Commission on Elections.*

1. What measures are in place to regulate private entities engaged in selling firearms to civilians in the domestic market? What conditions are private entities required to fulfil in order to qualify for a license to sell firearms?

*This is covered under Sections 13 to 16 of RA 10591 and its IRR as attached.*

1. How does your country monitor and enforce existing regulation of civilian access to firearms? What sanctions, if any, does your domestic legislation provide for: (a) illegal possession, (b) possession of prohibited firearms or of a number of firearms exceeding what the law allows, (c) lack of permission or license required for possessing firearm?

*This is covered under Article V of RA 10591 or Rule V of its IRR.*

1. Do the authorities in your country collect data on civilian misuse of firearms? If so, what data is gathered and how is it used?

*PNP collects data on reported cases regarding misuse of firearms for the conduct of investigation.*

1. What is the impact of the misuse of firearms by civilians on human rights, in particular the right to life and the right to security? What is the basis of your assessment of this impact?

*The misuse of firearm may be detrimental to life, security and safety of the public as it may be used to exacerbate crimes. Alarming issue is when a light weapon goes in the hands of a threat group or its member(s) especially in conflict regions in the country. Incidents relative to the use of such types of weapons occurred.*

1. What measures are in place to minimize the risk of firearms being misused by civilians?

*Effective implementation and enforcement of the existing laws, rules and regulations relative to the acquisition, possession, distribution, sale or other modes of transfer of firearms and ammunition.*

1. What is the impact of the domestic regulation of civilian firearms on the protection of the right to life and security of person? How effective is this regulation in human rights protection?

*The impact of domestic regulation of civilian firearms on the protection of the right to life and security of person is ensuring that persons who owns or desiring to own, possess or carry firearms outside residence are those who are qualified only and within the limits set by laws especially private security agencies.*

*This regulatory measure recognizes human rights protection as it ensures that holders are responsible gun owners and have sufficient knowledge and skills in proper handling of firearms as set forth under existing laws, rules and regulations.*