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MEXICO

RIGHT TO BEAR ARMS BY FOREIGNERS

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Executive Summary

The Constitution grants Mexico's inhabitants the right to possess arms for their security and legitimate defense and mandates that federal law regulate the conditions under which and places where inhabitants may be authorized to carry arms. Under Mexico's Federal Law on Firearms and Explosives only foreigners who have permanent resident (inmigrado) status and who meet additional statutory requirements may carry arms, with the exception of tourists, who may be granted temporary licenses for sporting purposes.

I. Applicable Federal Law

Mexico has a constitutional provision granting its inhabitants the right to bear arms as well as legislation prescribing the limits of that right. Article 10 of the Constitution reads as follows:

The inhabitants of the United Mexican States have the right to possess arms in their residences for their security and legitimate defense, with the exception of those [arms] prohibited by federal law and those reserved for the exclusive use of the Army, Navy, Air Force, and National Guard. Federal law shall determine the cases, conditions, requirements and places [under] which the inhabitants may be authorized to bear arms.¹

Mexican law governing the use of firearms is principally that of the Federal Penal Code,² as amended; the Federal Law on Firearms and Explosives,³ which supplements and greatly expands on the provisions of the Penal Code; and the Regulation of the Federal Law on Firearms and Explosives.⁴

¹ Constitución Política de los Estados Unidos Mexicanos art. 10, Diario Oficial de la Federación [D.O.], Feb. 5, 1917; errata: D.O., Feb. 6, 1917, *as amended* (translation by the author, N.G.).

² Código Penal Federal arts. 160-163, *as amended*, D.O., Aug. 14, 1931, <http://www.ordenjuridico.gob.mx/Documentos/Federal/wo38906.doc>.

³ Ley Federal de Armas de Fuego y Explosivos, *as amended*, D.O., Jan. 11, 1972, <http://www.ordenjuridico.gob.mx/Documentos/Federal/wo17039.doc>.

⁴ Reglamento de la Ley Federal de Armas de Fuego y Explosivos, *as amended*, D.O., May 6, 1972, <http://www.ordenjuridico.gob.mx/Documentos/Federal/wo40311.pdf>.

II. Licenses for Carrying Firearms

The Federal Law on Firearms and Explosives deals, among many other issues, with the requirements for granting licenses to carry firearms.⁵ Article 27 on the authorization for foreigners to carry arms states as follows:

Article 27. Foreigners may be authorized to carry arms only when, in addition to satisfying the conditions set forth in the previous article [26], they also have permanent residence [*inmigrado*] status, except that temporary licenses may be issued to tourists for sporting purposes.⁶

The conditions set forth in Article 26, which are referred to in Article 27, deal with licenses for private parties. Article 26 specifically states that licenses for private parties may be issued individually for private individuals, or collectively for private legal entities when they meet the requirements listed below.

III. Licenses for Individuals

Under Article 26, licenses for individuals are for the exclusive use of that individual. Licenses are issued to private individuals who have

- A. an honest occupation;
- B. completed any national military service obligation;
- C. no physical or mental impediment to their use of arms;
- D. not been convicted of any crime committed with the use of arms;
- E. do not consume psychotropic or other prohibited drugs;
- F. a need to carry arms, by the nature of their employment or occupation, by the special circumstances of the place in which they live, or because of other factors deemed credible in the judgment of the Secretariat of National Defense.

Licenses for private individuals for one or more firearms may also be issued for the purposes of target shooting or hunting, but only if the interested party is a member of a registered club or association and meets the first five requirements listed above.⁷

IV. Licenses for Legal Entities

Article 26 sets forth additional requirements for licenses issued to private legal entities, as follows:

⁵ Ley Federal de Armas de Fuego y Explosivos arts. 24-29.

⁶ *Id.* art. 27 (translation by the author, N.G.).

⁷ *Id.* art. 26, ¶ I.

- A. Licenses are to be issued to private legal entities that are incorporated under Mexican laws.
- B. In cases of private security services, licenses are issued to those entities that
 - a. have authorization to operate as a private security service; and
 - b. have a favorable opinion from the Secretary of Interior about their justification and need to carry arms, the amount and characteristics of the arms, and the places where they may carry them.
- C. Licenses are issued to other legal entities when special circumstances justify it, according to the discretion of the Secretary of National Defense, for their internal security services and protection of their facilities. They must comply with the controls and supervision of the Secretary.
- D. It must be proved that those who carry firearms comply with the provisions of the first five subsections of article 26 (discussed in Part III, above).

Upon approval of the Secretariat of National Defense, the entity that holds a collective license must issue personal identification credentials that contain data on the collective license, and the license shall be renewed every six months.

The timeframe for issuing the individual and collective licenses shall be fifty working days after the appropriate request is made.⁸

As clearly stated by article 27, foreigners who desire to have an authorization to carry arms must not only comply with the requirements of article 26, but also must have permanent resident (*inmigrado*) status.

Under the General Population Law of 1974, as amended, which contains Mexico's immigration policy, an *inmigrado* is an alien who has applied for and obtained permanent residence after five years of *inmigrante* status (temporary legal residence).⁹ The Law defines an *inmigrante* as an alien who legally enters the country for the purpose of establishing his residence in Mexico, and subsequently obtains *inmigrado* or permanent residence status after five years of legal residence.¹⁰ The Law establishes nine categories of *inmigrantes*: pensioners, investors, professionals, executives, scientists, technicians, family dependents, artists and sportsmen, and those who have been "assimilated" as defined by law.¹¹

⁸ *Id.* ¶ II.

⁹ Ley General de Población, arts. 52, 53, originally published officially in D.O., Jan. 7, 1974, <http://www.ordenjuridico.gob.mx/Documentos/Federal/wo8268.doc>.

¹⁰ *Id.* art. 44.

¹¹ *Id.* art. 48.

Prepared by Norma C. Gutiérrez
Senior Foreign Law Specialist
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