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**NOTE**

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Subject: Compilation of Member States comments on the Proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons

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Delegations will find in annex the comments of Member States on the proposal for amendment of the firearms directive received by 10 December 2015.

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## **AUSTRIA**

Austria (AT) supports the views of the CZ delegation expressed in the meeting of GENVAL on 26<sup>th</sup> November and submitted in written form.

Moreover, AT would like to add some further comments (these comments are without prejudice to more detailed suggestions for amendments on the proposal itself):

### **Deactivation:**

Weapons that have been deactivated in accordance with the Commission implementing Regulation on the deactivation of firearms can only be re-activated with an enormous effort which would be equivalent to the manufacturing from scratch. There is no reasonable ground to keep these firearms under the scope of directive [91/477/EEC](#).

### **Replica firearms:**

According to the new Art. 1(1)(1h) replica firearms are “objects that have the physical appearance of a firearm, but are manufactured in such a way that they cannot be converted to firing a shot or expelling a bullet or projectile by the action of a combustible propellant”. Also toys and softairguns as well as plastic kits of firearms would fall under this definition. Therefore, such items should be excluded from the scope of the directive.

### **Impact assessment (new Art. 4, paragraph 4, lit. b):**

AT understands that due to the urgency of this proposal no impact assessment was submitted. However, having in mind that according to Article 4(4) each Member State shall ensure that the registries of the dealers and brokers established in their territory are connected to the computerized data-filing system of firearms, a relevant financial burden is foreseeable for the Member States. Therefore, AT asks the Commission for an impact assessment.

As an alternative (instead of connecting the registries of the dealers and brokers with the computerized data-filing system of firearms) Member States could ensure that authorities have at any time access to the registries of the dealers and brokers. This would be a less costly and equally efficient solution to reach the same goal of this provision.

### **Cultural and historical aspects of weapons (new Art. 6):**

Article 6 does not foresee any exceptions with regard to cultural and historical weapons. The Member States' authorities could, therefore, no longer grant permissions for historical category A weapons. This also means that weapons of inestimable (historical) value would need to be deactivated or even destroyed. This provision – similar to others in the proposal - manifestly infringes the principle of proportionality, all the more as the Commission did not provide for any proper explanation for the necessity of such a measure. No cases are known to the AT authorities where such weapons have been used for terrorist attacks.

### **Salute weapons (new Article 10a):**

The following paragraph shall be deleted: “~~The Commission shall adopt technical specifications for alarm and signal weapons as well as for salute and acoustic weapons to ensure they cannot be converted into firearms~~”.

### **Exchange of information on authorisations (new Art. 13, paragraph 4):**

The proposal foresees mandatory information exchange on the authorisations granted for the transfers of firearms to another Member State as well as information with regard to refusals to grant authorisations. These provisions lack proportionality and seem inadequate in particular in cases where there is no indication that the person concerned may try to get an authorisation from another Member State.

### **Categories (new Annex I part II):**

The proposal i.a. aims at preventing unauthorized persons from the possession of automatic firearms. In order to reach this goal, the following provisions need to be taken:

1. All semi-automatic firearms shall be included in category B
2. If relevant parts of such semi-automatic weapons are likely to be used in automatic firearms, these semi-automatic weapons shall fall under category A.

**Implementing period (new Annex I, Article 2):**

The implementation of the revised directive will require a revision of the Austrian Weapons Act (WaffenG). The proposed 3 months for the implementation is far too short and unusual for EU directives.

## **BULGARIA**

In principle Bulgaria supports the EC proposal for amendments of the Council Directive 91/477 on control of the acquisition and possession of weapons.

In our national legislation we have introduced criteria stricter than these foreseen in Directive 91/477, namely: Category A — Prohibited firearms, and all other categories are made equal to Category B, i.e. subject to authorisation, including weapons possessed by collectors. According to the national legislation weapons other than firearms are subject of registration.

We support the idea for harmonization of the standards and rules for deactivating of firearms and we think that stress should be put on the irreversibility of the process of deactivation rather than on the following tracing and observation.

We consider that the sale of weapons on the internet should be absolutely prohibited.

We have the following concrete notes regarding the proposed amendments of the directive:

1. We have reservations regarding the recategorization of the semi-automatic firearms. The most of the hunting and short barrel weapons are of this category of firearms and adding the semi-automatic firearms to the Category A — “Prohibited firearms” would have significant economic effect, which of its side would lead to increasing of the illegal weapons. We consider that when an effective control over this type of weapons is exercised by the competent authorities (regarding the weapon itself – marking, as well as regarding the brokers and persons who acquire and possess semi-automatic firearms) its prohibition it’s not necessary.

In Bulgaria there is an electronic register (EAR KOS) established, since 01.11.2013, on the base of the Dutch system VERONA, and the data-base is established on the base of ORACLE. EAR KOS is an web-based application, by using which control is exercised on the production, trade, storage, carrying, use and transportation of weapons, ammunition, explosives and pyrotechnic articles of persons and legal entities.

Through it, in real time, could be done check for the ownership of any weapon, registered in the data-base, as well as to trace the change of its ownership. It is possible to make all kind of checks regarding the activities with weapons, ammunition, explosives and pyrotechnic articles, including the history of the whole life cycle of the particular piece of weapon.

2. We think that the 3-month period for the transposition of the directive could be insufficient because of the internal legal procedures needed for the implementation of the requirements of the directive into the national legislation. We propose to consider the possibility of prolonging the term, for example for 6 months.
3. We agree that the interconnection and the integration of the national systems for exchange of information will lead to better tracing of the firearms but when discussing the idea it should be taken into account that this will lead to significant financial implications.

In conclusion we would like to note that the focus should be on illegal weapons because most crimes are committed with illegal weapons, not with legally owned.

# CZECH REPUBLIC

## CHAPTER 1

### Scope

#### Article 1

##### ▼ M1

For the purposes of this Directive, 'firearm' shall mean any portable barrelled weapon that expels, is designed to expel or may be converted to expel a shot, bullet or projectile by the action of a combustible propellant, unless it is excluded for one of the reasons listed in Part III of Annex I. Firearms are classified in part II of Annex I.

For the purposes of this Directive, an object shall be considered as capable of being converted to expel a shot, bullet or projectile by the action of a combustible propellant if:

- it has the appearance of a firearm, and
- as a result of its construction or the material from which it is made, it can be so converted.

1a. For the purposes of this Directive, 'part' shall mean any element or replacement element specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound caused by firing a firearm.

**CZ:** *With regard to the amended definition of “essential component”, it is not very clear what components are included under the term “part”. All of the examples given in the definition are further defined as “essential components”. It is questionable to what “any elements” should the Directive apply. Should this term include stocks? Grips? Sights? Mounts? Magazines? Trigger mechanisms? Springs? Screws?*



- 1b. For the purposes of this Directive, 'essential component' shall mean the barrel, frame, receiver, slide or cylinder, bolt or breach block and any device designed or adapted to diminish the sound caused by firing a firearm which, being separate objects, breach-closing mechanism, the chamber and the barrel of a firearm which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted.

**CZ:** *Further clarification would be helpful in the case of actions of (mostly) long fully- and semi-automatic firearms. Action mechanisms of these weapons typically consist of more parts. It should be made clear which of them (or perhaps only an complete action?) shall be considered essential components.*

*Should the term “any device designed or adapted to diminish the sound caused by firing a firearm which, being separate objects” apply also to e. g. “linear compensators” that direct noise forward from the shooter? If yes, there would be not much reason not to include also other muzzle devices (compensators, flash hidens, muzzle brakes) in the scope of the Directive, however, that would be rather excessive.*

- 1c. For the purposes of this Directive, 'ammunition' shall mean the complete round or the components thereof, including cartridge cases, primers, propellant powder, bullets or projectiles, that are used in a firearm, provided that those components are themselves subject to authorisation in the relevant Member State.
- 1d. For the purposes of this Directive, 'tracing' shall mean the systematic tracking of firearms and, where possible, their parts and ammunition from manufacturer to purchaser for the purpose of assisting the competent authorities of Member States in detecting, investigating and analysing illicit manufacturing and illicit trafficking.
- 1e. For the purposes of this Directive, 'broker' shall mean any natural or legal person, other than a dealer, whose trade or business consists wholly or partly in the buying, selling or arranging the transfer of ~~weapons~~ within a Member State, from one Member State to another Member State or exporting to a third country fully assembled firearms, their parts and ammunition;

1f. For the purpose of this Directive, 'alarm and signal weapons' shall mean portable devices with a cartridge holder having a gas exit to the front, aside or on the top, which are specifically designed and constructed for the purpose of raising alarm or sending a signal and which are only designed to fire blanks, irritants, other active substances or pyrotechnic ammunitions.

1g. For the purpose of this Directive, 'salute and acoustic weapons' shall mean firearms specifically converted for the sole use of firing blanks, for use in theatre performances, photographic sessions, movies and television recordings.

**CZ:** *The terminology on firearms covered in the indents 1f. and 1g. needs some further clarification. According to our information there are some discussions between the Commission and the C.I.P. about the issue. Generally, we do not see the reason for the introduction of a “dual” term “salute and acoustic weapons” – is there any substantive difference between these two types of weapons? More importantly, we do not think, that it is appropriate to fuse the terms “alarm weapon” and “signal weapon” into one definition. In our view, there are substantial differences between these weapons. The most important difference is that the signal weapons are typically constructed to be capable of expelling a projectile (pyrotechnic ammunition). On the other hand, alarm weapons can be typically used for shooting pyrotechnic ammunitions only when they have a gas exit to the front and a muzzle a muzzle adapter is used.*

1h. for the purposes of this Directive, 'replica firearms' shall mean objects that have the physical appearance of a firearm, but are manufactured in such a way that they cannot be converted to firing a shot or expelling a bullet or projectile by the action of a combustible propellant.

**CZ:** *The definition of “replica firearms” is vague. What products should be covered by this term? Air-soft guns? Training dummy firearms? Lighters having the appearance of firearms? Decorative firearms? Toys? It must be highlighted that due to the subsequent obligations of holders of “replicas” any such objects would have to be e. g. marked according to the Directive as amended. There would be also the obligation to declare and register such objects.*

*We doubt that there are any real security threats connected with the possession of any of the objects mentioned above that would legitimize the regulation of those within the Directive. It must be noted that the enforcement of such regulation would be enormously burdensome and costly, especially with respect to the “replicas” that are already owned by general public.*

1i. For the purposes of this Directive, 'deactivated firearms' shall mean firearms that have been modified with the purpose of rendering them permanently unfit for use by deactivation, ensuring that all essential parts of the firearm have been rendered permanently inoperable and incapable of removal, replacement or a modification that would permit the firearm to be reactivated in any way.'

**CZ:** *In our view, the Directive could further clarify the legal status of the formerly deactivated firearms (according to the national laws). We suggest that the definition explicitly mentions that a firearm can be considered deactivated in the sense the term is used in the Directive only if it was deactivated according to the Commission Regulation on deactivation of firearms. Any other deactivated firearms shall be considered firearms of the categories as if they were not deactivated.*

2. For the purposes of this Directive, 'dealer' shall mean any natural or legal person whose trade or business consists wholly or partly in any of the following:

(i) the manufacture, trade, exchange, hiring out, repair or conversion of firearms;

(ii) the manufacture, trade, exchange, hiring out, repair or conversion of parts of firearms;

(iii) the manufacture, trade, exchange or conversion of ammunition. ~~parts and ammunition.~~

**CZ:** *We suggest that the term “manufacturer” should be introduced in the Directive. There are more instances throughout the Directive when the obligations entrepreneurs ought to be defined in different way in case of dealers (in narrow sense) and manufacturers. For instance in the case of recording of firearms (in the data-filling systems), it should be defined when a product becomes “firearm” in a production process and thus when a manufacturer is obliged to keep record of it.*

*With respect to (ii) it should be clarified what enterprises which “manufacture, trade, exchange, hiring out, repair or conversion of parts of firearms” should be considered dealers. We refer here to our comment on the definition of the term “part” (1a). It is not entirely understandable why e.g. a joiner who produce stocks or grips made of wood should be a “dealer” under the Directive (it can be noted that it is not rare that the private holders of firearms make or repair stocks or also other parts of their firearms other than essential components – should they be considered dealers?). An analogous comment apply also to the definition of “broker” above.*

- 2a. For the purposes of this Directive, 'illicit manufacturing' shall mean the manufacturing or assembly of firearms, their parts and ammunition:
- i) from any essential component of such firearms illicitly trafficked;
  - ii) without an authorisation issued in accordance with Article 4 by a competent authority of the Member State where the manufacture or assembly takes place; or
  - iii) without marking the assembled firearms at the time of manufacture in accordance with Article 4(1).

#### ▼M1

- 2b. For the purposes of this Directive, 'illicit trafficking' shall mean the acquisition, sale, delivery, movement or transfer of firearms, their parts or ammunition from or across the territory of one Member State to that of another Member State if any one of the Member States concerned does not authorise it in accordance with the terms of this Directive or if the assembled firearms are not marked in accordance with Article 4(1).

#### ▼B

3. For the purposes of this Directive, a person shall be deemed to be a resident of the country indicated by the address appearing on a document establishing his place of residence, such as a passport or an identity card, which, on a check on possession or on acquisition, is submitted to the authorities of a Member State or to a dealer.

## ▼ M1

4. A 'European firearms pass' shall be issued on request by the authorities of a Member State to a person lawfully entering into possession of and using a firearm. It shall be valid for a maximum period of five years, which may be extended, and shall contain the information set out in Annex II. It shall be non-transferable and shall record the firearm or firearms possessed and used by the holder of the pass. It must always be in the possession of the person using the firearm and any change in the possession or characteristics of the firearm, as well as the loss or theft thereof, shall be indicated on the pass.

### Article 2

1. This Directive is without prejudice to the application of national provisions concerning the carrying of weapons, hunting or target shooting.
2. This Directive shall not apply to the acquisition or possession of weapons and ammunition, in accordance with national law, by the armed forces, the police, the public authorities. ~~or by collectors and bodies concerned with the cultural and historical aspects of weapons and recognized as such by the Member State in whose territory they are established.~~ Nor shall it apply to commercial transfers of weapons and ammunition of war.

**CZ:** *The wording “commercial transfers of weapons and ammunition of war” needs to be clarified or defined. Does this apply to the firearms subject to the Common Military List (and thus to the Directive 2009/43/EC)? Are there any other cases when neither of the laws would apply?*

### Article 3

Member States may adopt in their legislation provisions which are more stringent than those provided for in this Directive, subject to the rights conferred on residents of the Member States by Article 12 (2).

## CHAPTER 2

### Harmonization of legislation concerning firearms

#### ▼ M1

#### Article 4

1.—Member States shall ensure ~~either~~ that any firearm or part placed on the market has been marked and registered in compliance with this Directive, ~~or that it has been deactivated.~~

**CZ:** *Should this obligation be applied retrospectively (retroactively) also to all the items that are proposed to be included under the application of the Directive and that are already possessed by persons in the Member states?*

1. \_\_\_\_\_

2.—For the purpose of identifying and tracing each assembled firearm, Member States shall, at the time of manufacture of each firearm or at the time of import to the Union, ~~either:~~

3-2. (a) require a unique marking, including the name of the manufacturer, the country or place of manufacture, the serial number and the year of manufacture, ~~(if not part of the serial number).~~  
This shall be without prejudice to the affixing of the manufacturer's trademark.

#### ▼ M1

~~For these purposes, the Member States may choose to apply the provisions of the Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms; or~~

~~(b) maintain any alternative unique user friendly marking with a number or alphanumeric code, permitting ready identification by all States of the country of manufacture.~~

The marking shall be affixed to ~~an essential component of the firearm, the destruction of which would render the firearm unusable~~ the receiver of the firearm.

**CZ:** *It is not clear why the receiver should be the only essential component to which the marking should be affixed. There are also interpretation problems. To what part should the marking be affixed for instance in the case of AR-15 based firearms which have the so-called upper- and lower-receiver? This provision also does not seem very practical with respect to most firearms with polymer frames/receivers (erasing or changing any marking in plastic is far simpler than erasing or changing marking stamped in metal). In some cases (e.g. SIG P250), the marking affixed to the receiver would not be even visible from the outside of the complete gun.*

*How would this provision apply to existing firearms? If the new marking requirements should be met this would mean that e.g. most of existing semi-automatic pistols would have to be remarked (in case of pistols most of the information is typically marked on slides). However, such course of action does not seem very efficient and rational.*

Member States shall ensure that each elementary package of complete ammunition is marked so as to provide the name of the manufacturer, the identification batch (lot) number, the calibre and the type of ammunition. ~~For these purposes Member States may choose to apply the provisions of the Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms.~~

Furthermore, Member States shall ensure, at the time of transfer of a firearm from government stocks to permanent civilian use, the ~~appropriate~~ unique marking permitting identification ~~by States of the transferring country~~ government.

4.3. Member States shall make the pursuit of the activity of dealer or broker within their territory conditional upon authorisation on the basis of at least a check of the private and professional integrity and of the abilities of the dealer or broker. In the case of a legal person, the check shall be on the person who directs the undertaking.

5.4. Member States shall, by 31 December 2014, ensure the establishment and maintenance of a computerised data-filing system, either a centralised system or a decentralised system which guarantees to authorised authorities access to the data-filing systems in which each firearm subject to this Directive shall be recorded. This filing system shall record ~~and maintain for not less than 20 years~~ each firearm's type, make, model, calibre and serial number, as well as the names and addresses of the supplier and the person acquiring or possessing the firearm. The record of firearms, including deactivated firearms, shall be maintained until destruction of the firearm has been certified by the competent authorities.

*CZ: In the case of the Czech Central Firearms Register the data on any particular firearm are kept for 20 years after the end of the lifecycle of such firearm.*

Throughout their period of activity, dealers and brokers shall be required to maintain a register in which all firearms subject to this Directive and which are received or disposed of by them shall be recorded, together with such particulars as enable the firearm to be identified and traced, in particular the type, make, model, calibre and serial number thereof and the names and addresses of the persons supplying and acquiring it.

Upon the cessation of his activities, the dealer or broker shall deliver the register to the national authority responsible for the filing system provided for in the first subparagraph~~4~~.

Each Member State shall ensure that the registries of the dealers and brokers established in their territory are connected to the computerized data-filing system of firearms.

6.5. Member States shall ensure that all firearms may be linked to their owner at any moment. However, as regards firearms classified in category D, Member States shall, as from 28 July 2010, put into place appropriate tracing measures, including, as from 31 December 2014, measures enabling linking at any moment to the owner of firearms placed on the market after 28 July 2010.



## Article 4a

Without prejudice to Article 3, Member States shall allow the acquisition and possession of firearms only by persons who have been granted a licence or, with respect to categories C or D, who are specifically permitted to acquire and possess such firearms in accordance with national law.

### ▼ M1

## Article 4b

1. Member States shall ~~consider~~ establishing a system for the regulation of the activities of brokers and dealers. Such a system might include one or more of the following measures ~~such as~~:

~~(a) requiring the registration of brokers and dealers operating within their territory;~~

~~(b) requiring the licensing or authorisation of the activities of brokers and dealers.~~

2. The system referred to in paragraph 1 shall include at least a check of the private and professional integrity and of the abilities of the dealer or broker. In the case of a legal person, the check shall be on the legal person and on the person who directs the undertaking.

## Article 5

1. Without prejudice to Article 3, Member States shall ~~permit~~ authorize the acquisition and possession of firearms only by persons who have good cause and who:

**CZ:** *What is the legal meaning of the change of the wording (permit -> authorize)?*

(a) are at least 18 years of age, except in relation to the ~~acquisition, other than through purchase, and~~ possession of firearms for hunting and target shooting, provided that in that case persons of less than 18 years of age have parental permission, or are under parental guidance or the guidance of an adult with a valid firearms or hunting licence, or are within a licenced or otherwise approved training centre;

(b) are not likely to be a danger to themselves, to public order or to public safety. Having been convicted of a violent intentional crime shall be considered as indicative of such danger.

2. Member States shall provide for standard medical tests for issuing or renewing authorization as referred to in paragraph 1 and shall ~~may~~ withdraw authorisations for possession of a firearm if any of the conditions on the basis of which it was granted ~~are no longer satisfied~~ is no longer met.

Member States may not prohibit persons resident within their territory from possessing a weapon acquired in another Member State unless they prohibit the acquisition of the same weapon within their own territory.

▼B

Article 6

Member States shall take all appropriate steps to prohibit the acquisition and the possession of the firearms and ammunition classified in category A and to destroy those firearms and ammunition held in violation of this provision and seized. ~~In special cases, the competent authorities may grant authorizations for such firearms and ammunition where this is not contrary to public security or public order.~~

Member States may authorise bodies concerned with the cultural and historical aspects of weapons and recognised as such by the Member State in whose territory they are established to keep in their possession firearms classified in category A acquired before [the date of entry into force of this Directive] provided they have been deactivated in accordance with the provisions that implement Article 10(b).

**CZ:** *1. We cannot agree with ban on category A firearms without any possibility of a member state to grant exceptional authorizations. There are private subjects (primarily businesses) who need to obtain and possess category A firearms. It can be producers of ballistic protection, researchers, producers of military equipment and accessories etc. Neither of these entrepreneurs needs to be dealer or broker according to the Directive. However, the output of these persons is highly valuable for the security policy of state.*

2. *The text of the revised Directive as proposed is not clear whether these restrictions should apply also to dealers and manufacturers who supply category A firearms for military or security purposes. If these persons could not produce and trade category A firearms it would be absolutely devastating for the internal as well as external security of member states. Even if Article 2 par. 2 applies in some of these cases, it does not provide for many instances when private business (there are probably not many state-owned producers in the EU) should be permitted to deal with category A firearms. In other cases licensed gunsmiths and manufacturers (“dealers”) should be authorized to hold category A firearms also for the purposes of their deactivation, destruction etc. (otherwise, there would be actually no subject capable of performing these operations in the Czech republic).*

3. *The requirement for deactivation of category A firearms held by private museums and a ban on obtaining any new firearms of that category is hardly acceptable. There are firearms of great historical value which would be lost after deactivation. Moreover, it is questionable whether there are any real security risks connected with these historical artefacts. If it is so, it would be still more appropriate to set stricter rules for securing the firearms in museums. There is also probably much more category A firearms owned by public museums to which the Directive does not apply at all.*

The acquisition of firearms and their parts and ammunition concerning categories A, B and C by means of distance communication, as defined in Article 2 of Directive 97/7/EC of the European Parliament and of the Council <sup>(1)</sup>, shall be authorised only with respect to dealers and brokers and shall be subject to the strict control of the Member States.

**CZ:** *We agree that this restriction should doubtlessly apply to firearms, their essential components and ammunition. In addition, it should also apply to category D firearms as defined by the present version of the Directive (one-shot shotguns). And it also should be clarified to which other parts (other than essential components) the ban on distant purchase should apply. In our view there is little justification for an entire ban in case of many parts such as stocks, grips, sights, springs etc.*

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<sup>(1)</sup> Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts (OJ L 144, 4.6.1997, o.19)

▼ M1

~~Member States shall ensure that, except with respect to dealers, the acquisition of firearms and their parts and ammunition by means of distance communication, as defined in Article 2 of Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts <sup>(1)</sup>, shall, where authorised, be strictly controlled.~~

Article 7

1. No one may acquire a firearm classified in category B within the territory of a Member State unless that Member State has so authorized him.

No such authorization may be given to a resident of another Member State without the latter's prior agreement.

<sup>(1)</sup> OJ L 144, 4.6.1997, p. 19. Directive as last amended by Directive 2005/29/EC (OJ L 149, 11.6.2005, p. 22)

▼ B

2. No one may be in possession of a firearm classified in category B within the territory of a Member State unless that Member State has so authorized him. If he is a resident of another Member State, that other Member State shall be informed accordingly.

3. An authorization to acquire and an authorization to possess a firearm classified in category B may take the form of a single administrative decision.

## ▼ M1

4. Member States may consider granting persons who satisfy the conditions for the granting of an authorisation for a firearm a multi-annual licence for the acquisition and possession of all firearms subject to authorisation, without prejudice to:

- (a) the obligation to notify the competent authorities of transfers;
- (b) the periodic verification that those persons continue to satisfy the conditions; and
- (c) the maximum limits for possession laid down in national law.

The maximum limits shall not exceed five years. The authorisation may be renewed if the conditions on the basis of which it was granted are still fulfilled.

5. Member States shall adopt rules to ensure that persons holding authorisations for firearms of category B in force under national law as at 28 July 2008 do not need to apply for a licence or permit regarding firearms they hold in categories C or D due to the entry into force of Directive 2008/51/EC of the European Parliament and of the Council of 21 May 2008 <sup>(1)</sup>. However, any subsequent transfer of firearms of categories C or D shall be subject to the transferee obtaining or having a licence or being specifically permitted to possess those firearms in accordance with national law.

### Article 8

1. No one may be in possession of a firearm classified in category C unless he has declared it to the authorities of the Member State in which that firearm is held.

The Member States shall provide for the compulsory declaration of all firearms classified in category C at present held within their territories but not previously declared within one year of the entry into force of the national provisions transposing this Directive.

2. Every seller, dealer or private person shall inform the authorities of the Member State in which it takes place of every transfer or handing over of a firearm classified in category C, giving the particulars by which the firearm and the person acquiring it may be identified. If the person acquiring such a firearm is a resident of another Member State, that other Member State shall be informed of the acquisition by the Member State in which it took place and by the person acquiring the firearm.

3. If a Member State prohibits or makes subject to authorization the acquisition and possession within its territory of a firearm classified in category B, C or D, it shall so inform the other Member States, which shall expressly include a statement to that effect on any European firearms pass they issue for such a firearm, pursuant to Article 12 (2).

#### Article 9

1. The handing over of a firearm classified in category A, B or C to a person who is not resident in the Member State in question shall be permitted, subject to compliance with the obligations laid down in Articles 6, 7 and 8:

(<sup>1</sup>) OJ L 179, 8.7.2008, p. 5.

#### ▼B

- where the person acquiring it has been authorized in accordance with Article 11 himself to effect a transfer to his country of residence,
- where the person acquiring it submits a written declaration testifying to and justifying his intention to be in possession of the firearm in the Member State of acquisition, provided that he fulfils the legal conditions for possession in that Member State.

2. Member States may authorize the temporary handing over of firearms in accordance with procedures which they shall lay down.

## Article 10

The arrangements for the acquisition and possession of ammunition shall be the same as those for the possession of the firearms for which the ammunition is intended.

**CZ:** *The rules for acquisition of ammunition are not completely clear. There are many cartridges that are used in firearms of different categories. There are even cartridges that can be used in firearms to which the Directive does not apply (antique weapons) as well as in category A, B or C (or D) firearms.*

### Article 10a

Member States shall take measures to ensure that alarm and signal weapons as well as salute and acoustic weapons cannot be converted into firearms.

The Commission shall adopt technical specifications for alarm and signal weapons as well as for salute and acoustic weapons to ensure they cannot be converted into firearms.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13b(2).

### Article 10b

Member States shall make arrangements for the deactivation of firearms to be verified by a competent authority in order to ensure that the modifications made to a firearm render it irreversibly inoperable. Member States shall, in the context of this verification, provide for the issuance of a certificate or record attesting to the deactivation of the firearm or the apposition of a clearly visible mark to that effect on the firearm.

The Commission shall adopt deactivation standards and techniques to ensure that deactivate firearms are rendered irreversibly inoperable. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13b(2).

## CHAPTER 3

### **Formalities for the movement of weapons within the Community**

#### Article 11

1. Firearms may, without prejudice to Article 12, be transferred from one Member State to another only in accordance with the procedure laid down in the following paragraphs. These provisions shall also apply to transfers of firearms following a mail order sale.

2. Where a firearm is to be transferred to another Member State, the person concerned shall, before it is taken there, supply the following particulars to the Member State in which such firearm is situated:

- the names and addresses of the person selling or disposing of the firearm and of the person purchasing or acquiring it or, where appropriate, of the owner,
- the address to which the firearm is to be consigned or transported,
- the number of firearms to be consigned or transported,
- the particulars enabling the firearm to be identified and also an indication that the firearm has undergone a check in accordance with the Convention of 1 July 1969 on the Reciprocal Recognition of Proofmarks on Small Arms,
- the means of transfer,
- the date of departure and the estimated date of arrival.

The information referred to in the last two indents need not be supplied where the transfer takes place between dealers.

The Member State shall examine the conditions under which the transfer is to be carried out, in particular with regard to security.



Where the Member State authorizes such transfer, it shall issue a licence incorporating all the particulars referred to in the first subparagraph. Such licence shall accompany the firearm until it reaches its destination; it shall be produced whenever so required by the authorities of the Member States.

3. In the case of transfer of the firearms, other than weapons of war, excluded from the scope of this Directive pursuant to Article 2 (2), each Member State may grant dealers the right to effect transfers of firearms from its territory to a dealer established in another Member State without the prior authorization referred to in paragraph 2. To that end it shall issue an authorization valid for no more than three years, which may at any time be suspended or cancelled by reasoned decision. A

**▼ B**

document referring to that authorization must accompany the firearm until it reaches its destination; it must be produced whenever so required by the authorities of the Member States.

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Prior to the date of transfer, the dealer shall communicate to the authorities of the Member State from which the transfer is to be effected all the particulars listed in the first subparagraph of paragraph 2. Those authorities shall carry out inspections, where appropriate on the spot, to verify the correspondence between the information communicated by the dealer and the actual characteristics of the transfer. The information shall be communicated by the dealer within a period allowing sufficient time.

**▼ B**

4. Each Member State shall supply the other Member States with a list of firearms the transfer of which to its territory may be authorized ◀ without its prior consent.

Such lists of firearms shall be communicated to dealers who have obtained approval for transferring firearms without prior authorization under the procedure laid down in paragraph 3.

**CZ:** *The rules on transfers of firearms are only partially harmonized. The Directive should reflect also other legal norms applicable to transfers of firearms (Directive 2009/43/EC or Regulation 258/2012). There are multiple questions regarding security issues that should be discussed such as:*

- *at least minimum requirements for security of transferred firearms and ammunition, it can include also e.g. obligatory GPS tracking of larger cargos of firearms and ammunition,*
- *standardization of certificates, authorizations and consents issued by member states according Article 11 – this would significantly improve and simplify the checks and controls of transfers of firearms,*
- *the Commission could provide an on-line list of national authorities responsible for authorization of transfers of firearms and provide a summary of basic information about particular national rules applicable to the issue.*

#### Article 12

1. If the procedure provided for in Article 11 is not employed, the possession of a firearm during a journey through two or more Member States shall not be permitted unless the person concerned has obtained the authorization of each of those Member States.

Member States may grant such authorization for one or more journeys for a maximum period of one year, subject to renewal. Such authorizations shall be entered on the European firearms pass, which the traveller must produce whenever so required by the authorities of the Member States.

2. ►M1 Notwithstanding paragraph 1, hunters, in respect of categories C and D, and marksmen, in respect of categories B, C and D, may, without prior authorisation, be in possession of one or more firearms during a journey through two or more Member States with a view to engaging in their activities, provided that they are in possession of a European firearms pass listing such firearm or firearms and provided that they are able to substantiate the reasons for their journey, in particular by producing an invitation or other proof of their hunting or target shooting activities in the Member State of destination.

Member States may not make acceptance of a European firearms pass conditional upon the payment of any fee or charge. ◀

However, this derogation shall not apply to journeys to a Member State which prohibits the acquisition and possession of the firearm in question or which, pursuant to Article 8 (3), makes it subject to authorization; in that case, an express statement to that effect shall be entered on the European firearms pass.

In the context of the report referred to in Article 17, the Commission in consultation with the Member States, will also consider the effects of applying the second subparagraph, particularly as regards its impact on public order and public security.

3. Under agreements for the mutual recognition of national documents, two or more Member States may provide for arrangements more flexible than those prescribed in this Article for movement with firearms within their territories.

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### Article 13

1. Each Member State shall communicate all useful information at its disposal concerning definitive transfers of firearms to the Member State to the territory of which such a transfer has been effected.

2. All information that Member States receive by way of the procedures laid down in Article 11 for transfers of firearms and in Article 7 (2) and Article 8 (2) for the acquisition and possession of firearms by non-residents shall be communicated, not later than the time of the relevant transfers, to the Member States of destination and, where appropriate, not later than the time of transfer to the Member States of transit.

▼ M1

3. For the purposes of the efficient application of this Directive, Member States shall exchange information on a regular basis. To this end, the Commission shall set up, by 28 July 2009, a contact group for the exchange of information for the purposes of applying this Article. Member States shall inform each other and the Commission of the national authorities responsible for transmitting and receiving information and for complying with the obligations set out in Article 11(4).

4. The competent authorities of the Member States shall exchange information on the authorisation granted for the transfers of firearms to another Member State as well as information with regard to refusal to grant authorisation as defined in Article 7.

3-5. The Commission shall be empowered to adopt delegated acts in accordance with Article 13a concerning the modalities of exchange of information on authorisations granted and on refusals.

Article 13a

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Article 13 shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Directive.
3. The delegation of power referred to in Article 13 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 13 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

*Article 13b*

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>(2)</sup>.

~~1.—Where reference is made to this paragraph, Articles 5 and 7 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(+)</sup> shall apply, having regard to the provisions of Article 8 thereof.~~

~~2.—The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.~~

6. of Regulation (EU) No 182/2011 shall apply.

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<sup>2</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p.13)

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Article 14

Member States shall adopt all relevant provisions prohibiting entry into their territory:

- of a firearm except in the cases defined in Articles 11 and 12 and provided the conditions laid down therein are met,
- of a weapon other than a firearm provided that the national provisions of the Member State in question so permit.

**CHAPTER 4** Final provisions

Article 15

1. Member States shall intensify controls on the possession of weapons at external Community frontiers. They shall in particular ensure that travellers from third countries who intend to proceed to another Member State comply with Article 12.

2. This Directive shall not preclude the carrying out of controls by Member States or by the carrier at the time of boarding of a means of transport.

(<sup>1</sup>) OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

3. Member States shall inform the Commission of the manner in which the controls referred to in paragraphs 1 and 2 are carried out. The Commission shall collate this information and make it available to all Member States.

4. Member States shall notify the Commission of their national provisions, including changes relating to the acquisition and possession of weapons, where the national law is more stringent than the minimum standard they are required to adopt. The Commission shall pass on such information to the other Member States.

## Article 16

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

## Article 17

~~The Commission shall, by 28 July 2015, submit every five years a report to the European Parliament and the Council on the application of this Directive, on the situation resulting from the application of this Directive, accompanied, if appropriate, by proposals in particular as regards the categories of firearms of Annex I and the issues related to new technologies such as 3D printing. The first report shall be submitted two years after the entry into force of this Directive.~~

~~The Commission shall, by [date], assess the necessary elements of a system for the exchange of information contained in the computerised data-filing systems referred to in Article 4(4) between the Member States. The Commission's assessment shall be accompanied, if appropriate, by a legislative proposal taking into account existing instruments regarding exchange of information.~~

~~The Commission shall, by 28 July 2012, carry out research and submit a report to the European Parliament and the Council on the possible advantages and disadvantages of a reduction to two categories of firearms (prohibited or authorised) with a view to the better functioning of the internal market for the products in question by means of possible simplification.~~

~~The Commission shall, by 28 July 2010, submit a report to the European Parliament and the Council presenting the conclusions of a study of the issue of the placing on the market of replica firearms in order to determine whether the inclusion of such products within the scope of this Directive is possible and desirable.~~

## Article 18

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive in good time so that the measures provided for by this Directive may be put into effect not later than 1 January 1993. They shall forthwith inform the Commission and the other Member States of the measures taken.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

## Article 19

This Directive is addressed to the Member States.



▼B

ANNEX I

I. For the purposes of this Directive, 'weapon' means:

▼ M1

– any firearm as defined in Article 1 of the Directive,

▼ B

– weapons other than firearms as defined in national legislation.

II. For the purposes of this Directive, 'firearm' means:

A. Any object which falls into one of the following categories, unless it meets the definition but is excluded for one of the reasons listed in section III.

*Category A*— Prohibited firearms

1. Explosive military missiles and launchers.
2. Automatic firearms.
3. Firearms disguised as other objects.
4. Ammunition with penetrating, explosive or incendiary projectiles, and the projectiles for such ammunition.
5. Pistol and revolver ammunition with expanding projectiles and the projectiles for such ammunition, except in the case of weapons for hunting or for target shooting, for persons entitled to use them.
6. Automatic firearms which have been converted into semi-automatic firearms;
7. Semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms;
- ~~5-8.~~ Firearms under points 1 to 7 after having being deactivated.

## **CZ: (categories A and B)**

1. *As we already noted in our non-paper circulated on November 25 there are many doubts that the ban of selected semi-automatic firearms will contribute to security. With respect to the current situation there are serious concerns that the ban will lead to massive outflow of these so-far legally owned weapons to illegal sphere. The concerns have further increased over the last days as the refusal to the eventual expropriation of these firearms has started to shape as a political stance. The firearms policy in the Czech Republic has been stable over the past two decades. The results are very low level of armed crime and circa 20,000 illegal firearms voluntarily given up during the so-called amnesties. The implementation of the proposed restrictions can well obliterate these results as the supply of illegal firearms will be revitalized by tens of thousands of “lost” or “stolen” modern semiautomatic firearms.*

2. *The interpretation of the terms used in the newly proposed indents 6 and 7 will produce a magnitude of problems and ambiguities. Besides the problems with the specification of resemblance of weapons with automatic mechanisms (see the non-paper cited above) it can be mentioned that also a definition of a “converted semi-automatic firearm” might not be clear and thus applicable. Especially large producers of these firearms usually use a mix of parts from used firearms, new spare parts (which were never part of a fully-automatic firearm), semi-finished parts from original military production and newly produced parts manufactured exclusively for the semiautomatic variants of the firearms. To what extent is a firearm “converted” from an originally fully-automatic firearm would be thus very difficult to define.*

3. *It is true that a deactivated firearm can be in some cases reactivated. But the reactivation of firearms deactivated according to strict rules introduced by the Commission Regulation on Deactivation of Firearms would be at least very costly and technically complex. In case of properly deactivated firearms it would be sometimes even more efficient to produce a completely new firearm. However, it will still be much easier to convert an alarm, acoustic or salute firearm (the proposal of the revised Directive does not preclude even these firearms analogous to firearms category A and still classifies them as category C firearms). The ban of the category A firearms after being deactivated will also lead to extensive criminalization of people who currently own these deactivated firearms (category A firearms are the most commonly deactivated firearms due to their attractiveness to collectors and reenactors). Finally, it is unclear why the Commission urgently introduced the common guidelines on deactivation when, at the same time, she adopted a proposal that in fact dissolves any incentive to deactivate category A firearms.*

4. According to the Evaluation of the Firearms Directive by the Commission issued in December 2014 a in-depth analysis on “the public availability of information on how to convert semi-automatic weapons in automatic weapons” should be conducted. According to the Evaluation this analysis should assess whether “these firearms may be more dangerous than other category B firearms”. It should be clarified whether such analysis was conducted and it should be eventually communicated to the member states. The Evaluation itself only briefly cites some (questionable) examples of possible conversions and finally states that “no specific evidence that converted semi-automatic weapons are used in crimes was collected during this study to further support this concern”.

5. With respect to the comments above we request to delete the indents 6, 7 and 8 from the proposal. Subsequently, the indent 7 in category B should not be deleted.

6. However, there is doubtlessly space for adoption of common technical guidelines (minimum standards) for conversion of fully-automatic firearms to semi-automatic firearms.

#### **Category B — Firearms subject to authorization**

1. Semi-automatic or repeating short firearms.
2. Single-shot short firearms with centre-fire percussion.
3. Single-shot short firearms with rimfire percussion whose overall length is less than 28 cm.
4. Semi-automatic long firearms whose magazine and chamber can together hold more than three rounds.
5. Semi-automatic long firearms whose magazine and chamber cannot together hold more than three rounds, where the loading device is removable or where it is not certain that the weapon cannot be converted, with ordinary tools, into a weapon whose magazine and chamber can together hold more than three rounds.
6. Repeating and semi-automatic long firearms with smooth-bore barrels not exceeding 60 cm in length.
7. ~~Semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms.~~

### *Category C — Firearms subject to declaration*

1. Repeating long firearms other than those listed in category B, point 6.
2. Long firearms with single-shot rifled barrels.
3. Semi-automatic long firearms other than those in category B, points 4 to 7.
4. Single-shot short firearms with rimfire percussion whose overall length is not less than 28 cm.
5. Alarm and signal weapons, salute and acoustic weapons as well as replicas;
- 4.6. Firearms under category B and points 1 to 5 of category C, after having been deactivated.

### *Category D — Other firearms*

Single-shot long firearms with smooth-bore barrels.

B. Any essential component of such firearms:

~~The breach-closing mechanism, the chamber and the barrel of a firearm which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted.~~

### **CZ: (categories C and D)**

*1. We support the classification of single-shot shotguns in category C. These firearms can use powerful ammunition and their efficacy and readiness (no need for additional technical operations as reactivation or conversion) is incomparable to deactivated firearms or blank-firing weapons.*

*2. On the contrary, the classification of all alarm, signal, salute and acoustic weapons, replicas, and category B and C firearms after being deactivated can be problematic in many respects. It is almost certain, that the most of these objects that are currently held by the public wouldn't be declared to the authorities and will become articles of illicit trafficking. However, we do not deny that these products should be probably made subject to the Directive (except replicas). But more structured approach is needed. It will be proportional and sufficient to classify alarm, signal, salute and acoustic weapons and deactivated firearms as category D if a particular weapon meets the*

*strict technical requirements of common guidelines on deactivation or technical specification according the newly proposed Article 10a. Otherwise these weapons can be classified either as firearms of the original categories (as if they were not deactivated or converted at all) or as category A firearms. However, we strongly oppose the idea of regulating “replicas” within the scope of the Directive, as there is a definite doubt that these objects pose any security risk at all.*

For the purposes of this Annex objects which correspond to the definition of

a 'firearm' shall not be included in that definition if they:

- ~~(a) have been rendered permanently unfit for use by deactivation, ensuring that all essential parts of the firearm have been rendered permanently inoperable and incapable of removal, replacement or a modification that would permit the firearm to be reactivated in any way;~~
- (b) are designed for alarm, signalling, life-saving, animal slaughter or harpoon fishing or for industrial or technical purposes provided that they can be used for the stated purpose only;
- (c) are regarded as antique weapons or reproductions of such where these have not been

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included in the previous categories and are subject to national laws.

~~Member States shall make arrangements for the deactivation measures referred to in point (a) to be verified by a competent authority in order to ensure that the modifications made to a firearm render it irreversibly inoperable. Member States shall, in the context of this verification, provide for the issuance of a certificate or record attesting to the deactivation of the firearm or the apposition of a clearly visible mark to that effect on the firearm. The Commission shall, acting in accordance with the procedure referred to in Article 13a(2) of the Directive, issue common guidelines on deactivation standards and techniques to ensure that deactivated firearms are rendered irreversibly inoperable.~~

▼ B

Pending coordination throughout the Community, Member States may apply their national laws to the firearms listed in this Section.

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IV. For the purposes of this Annex:

▼ B

- (a) 'short firearm' means a firearm with a barrel not exceeding 30 centimetres or whose overall length does not exceed 60 centimetres;
- (b) 'long firearm' means any firearm other than a short firearm;
- (c) 'automatic firearm' means a firearm which reloads automatically each time a round is fired and can fire more than one round with one pull on the trigger;
- (d) 'semi-automatic firearm' means a firearm which reloads automatically each time a round is fired and can fire only one round with one pull on the trigger;
- (e) 'repeating firearm' means a firearm which after a round has been fired is designed to be reloaded from a magazine or cylinder by means of a manually-operated action;
- (f) 'single-shot firearm' means a firearm with no magazine which is loaded before each shot by the manual insertion of a round into the chamber or a loading recess at the breech of the barrel;
- (g) 'ammunition with penetrating projectiles' means ammunition for military use where the projectile is jacketed and has a penetrating hard core;
- (h) 'ammunition with explosive projectiles' means ammunition for military use where the projectile contains a charge which explodes on impact;
- (i) 'ammunition with incendiary projectiles' means ammunition for military use where the projectile contains a chemical mixture which bursts into flame on contact with the air or on impact.

## ANNEX II

## EUROPEAN FIREARMS PASS

The pass must include the following sections:

- (a) identity of the holder;
- (b) identification of the weapon or firearm, including a reference to the category within the meaning of the Directive;
- (c) period of validity of the pass;
- (d) section for use by the Member State issuing the pass (type and references of authorizations, etc.);
- (e) section for entries by other Member States (authorizations to enter their territory, etc.);
- (f) the statements:

'The right to travel to another Member State with one or more of the firearms in categories B, C or D mentioned in this pass shall be subject to one or more prior corresponding authorizations from the Member State visited. This or these authorizations may be recorded on the pass.

The prior authorization referred to above is not in principle necessary in order to travel with a firearm in categories C or D with a view to engaging in hunting or with a firearm in categories B, C or D for the purpose of taking part in target shooting, on condition that the traveller is in possession of the firearms pass and can establish the reason for the journey. '

Where a Member State has informed the other Member States, in accordance with Article 8 (3), that the possession of certain firearms in categories B, C or D is prohibited or subject to authorization, one of the following statements shall be added:

'A journey to... (State(s) concerned) with the firearm ... (identification) shall be prohibited.'

'A journey to. (State(s) concerned) with the firearm ... (identification) shall be subject to authorization.'

**CZ:** *The proposal of the amending directive foresees that a member state shall bring into force the laws, regulations and administrative provisions necessary to comply with it 3 months after publication in the Official Journal. This period is completely unrealistic. The implementation of the revised Directive will require an amendment of the Czech Firearms Act as well as of numerous administrative regulations. The legislative process of adoption of an amendment to an act of the Parliament takes approx. 5-8 months. However, the normative acts affected by the revision of the Directive will be “technical norms” and thus subject to notification according to the Directive 2015/1535. Only the notification period has to last 3 months. Thus, any period for implementation of the amended Directive shorter than 12 months cannot be complied with for purely technical reasons.*



## ESTONIA

### General remarks

Estonia welcomes the Commission proposals to strengthen control of firearms and the possibility to send in opinions.

In general we support the objective to ensure that any firearm or part placed on the market has been marked and registered, also the need for better exchange of information between Member States. The exchange of information on stolen and lost firearms must be made more effective. Member States should continue entering data in the SIS II database. The exchange of information through iARMS and SIS II should be automatic.

Though, at the moment Estonia has a general scrutiny reservation on the whole text. As the proposed changes concern wide range of matters and the proposal is submitted without an impact assessment we are currently unable to evaluate all the impacts that may be associated with this proposal.

We support the initiative to combat illegal trade of weapons, which could be the basis for the revision of the existing directive, but new solutions should not be unduly restrictive for the law-abiding firearms owners, such as athletes and hunters. The proposal bans semi-automatic weapons which are included in the current category "B7". Semi-automatic weapons represent a high share of today's hunting and sport-shooting weapons. This change would have a significant influence on several persons who currently have the right to own that kind of weapons. Before making the decision on banning those weapons we have to analyse this issue thoroughly. At the moment we cannot support the proposal to restrict acquisition and possession of firearms that are possessed and used legally in accord with internal law of EU Member States. Currently we are hesitant whether the proposed changes will actually lead to the results that are expected.

In particular, Estonia stresses

- the difficulty to see today the justification for expanding the area of application,
- the need to assure conformity with the principle of proportionality,
- the need to have sufficient time for implementation.

## Comments

### Article 1

We agree that the proposal clarifies definitions of brokers and dealers and ensures consistency with the definition of essential components and parts of firearms as defined by UN Firearms Protocol. We have to be sure that all the essential components that have been added to paragraph 1b can be marked.

Definitions in paragraphs 1f–1h are not clear and may lead to different interpretations. It needs therefore to be clarified.

We support the initiative that deactivated firearms should be covered by the directive as regards identification of the owner and registers.

### Article 2

The proposal includes collectors within the scope of the directive. We agree that Member States have to have an overview of firearms collectors and that their possibility to acquire firearms is subject to authorisation/declaration. Our legislation already supports that.

### Article 4

In general we support the changes made to this article. Adding deactivated firearms within the scope of the directive the administrative burden of the competent authorities will increase. Currently our authorities do not have the obligation to keep a record of deactivated firearms. This amendment would entail the need to make changes the information systems and registries.

It is also stated in article 4 paragraph 4 that each Member State shall ensure that the registries of the dealers and brokers established in their territory are connected to the computerized data-filing system of firearms. With that proposal arises the need to make changes in the information systems and registries. Currently our dealers do not have an obligation to have a computerized registry.

### Article 4b

Generally we support the addition.

## Article 5

It needs to be clarified what is meant by “standard medical test”. In our legislation every person who applies for acquisition permit or weapons permit has to undergo a medical examination and submit a medical certificate. The obligation to withdraw authorizations, if the conditions on the basis of which it was granted is no longer met, raises the question how police will acquire the information that the person is mentally or physically no longer fit.

## Article 6

The proposed changes in article 6 are too restrictive. Firstly, the direct obligation to destroy weapons and ammunition mentioned in that article is too severe. Secondly, in our opinion museums and other authorised bodies are justified to have also in the future category A firearms and ammunition in their collections. Deactivation of those weapons could destroy the cultural value of the objects.

We can support the idea to restrain the acquisition of firearms and their parts and ammunition concerning categories A, B and C by means of distance communication.

## Article 7

We can support adding the maximum limit of five years into paragraph 4(c).

## Articles 10a and 10b

We can generally support these texts but we are looking forward to the technical specifications for alarm and signal weapons.

## Articles 13 and 17

In view of the movement of weapons within the Community we express our concern regarding lack of information exchange. We welcome the idea establishing a system of exchange of information among Member States. In our opinion it is important to have more information for law enforcement authorities related to persons who have been refused to have a weapons license in other Member State. It is also important to have information regarding specific weapon from its manufacturing to destruction.

## **FINLAND**

In Finland's view it is important to combat illicit trafficking of firearms and to reduce the threat imposed by illegal firearms and the use of firearms by serious and organized crime and terrorist organizations. It is also important that the Commission Regulation on common standards for the deactivation of firearms is implemented effectively without delay.

Finland appreciates the work done by the Commission in finalising the proposal to amend the Directive on control and of the acquisition and possession of weapons. It is also appreciated that the Presidency took this item on the agenda as soon as it was possible. Finland supports swift negotiations with this important proposal. However, at the moment of writing these written comments, Finland still has a general reservation but is able to submit some preliminary views.

In general, Finland supports many of the proposed amendments. For example, the provisions which aim to improve the traceability of firearms throughout their lifecycle and to improve information exchange between Member States are welcomed. However, there are also some issues in this proposal that have significant effect on Finland and, therefore, Finland is prepared to make some proposals so that the special characteristics we have in Finland could be duly taken into account.

At this point, Finland would like to point out two issues that are of special concern to Finland. In addition, Finland would like to draw your attention to some issues that need further clarification.

### **A. ISSUES OF SPECIAL CONCERN**

#### **1. Transferring semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms from Category B to Category A**

This proposed amendment is very restrictive. The main concern for Finland is that this new categorization would have a considerable effect on Finland's national defence. Finnish defence solution is unique compared to most other European countries. It relies heavily on a big reserve which is trained by both the Defence Forces and by National Defence Training Association. The training given is partly voluntary and this voluntary military training is vital in maintaining and developing military skills and capabilities of the reserve. Voluntary military training has a direct impact on Finnish defence capability.

Through voluntary military training roughly 80 000 training days will be provided to about 28 000 reservists during 2015. Of this training, about 1/3 is requested by the Defence Forces and 1/3 is provided by the National Defence Training Association through its own voluntary courses. A central part of these voluntary courses include weapon and live shooting exercises. For this purpose the reservists are allowed to buy, store and exercise with firearms that are similar enough to military weapons and create and sustain the needed shooting skills. Therefore, prohibiting semi-automatic firearms which resemble weapons with automatic mechanisms for civilian use has a significant effect on reservist shooting and military reserve capacity requirements. Voluntary defence training in Finland is oversighted by an advisory council appointed by the Finnish Government and based on national legislation.

In addition, the proposed prohibition of semi-automatic firearms will also have an effect on rifle disciplines in practical shooting and in practice makes this type of shooting sport impossible.

Finland would like to propose that in case the current B7 weapons are moved from Category B to Category A and, hence, become prohibited, some exceptions could be still allowed. As a concrete proposal, Finland would like to suggest the second sentence in the current Article 6 would not be deleted from the text.

Art 6 para 1 (Current Directive)	Commission's proposal for new Article 6 para 1
<p>Member States shall take all appropriate steps to prohibit the acquisition and the possession of the firearms and ammunition classified in category A. In special cases, the competent authorities may grant authorizations for such firearms and ammunition where this is not contrary to public security or public order.</p>	<p>Member States shall take all appropriate steps to prohibit the acquisition and the possession of the firearms and ammunition classified in category A and to destroy those firearms and ammunition held in violation of this provision and seized. <del>In special cases, the competent authorities may grant authorizations for such firearms and ammunition where this is not contrary to public security or public order.</del></p>

## 2. Restrictions on online trade

Restricting online trade will make it more difficult for people to acquire firearms, spare parts and ammunition legally. For example, in sparsely populated countries like Finland, the buyer and the seller may be located several hundred kilometers away from each other.

Instead of imposing an outright ban on legal online sale and purchase and other distance selling, these should be regulated in more detail. For example, it could be regulated that the broker or dealer would be allowed to sell or arrange transfer in case the individual concerned could verify his/her identity by electronic means. The proposed improvements to the traceability of firearms and to the record keeping (amendments to Article 4) would also help to increase the reliability of the online trade.

### **B. SOME ISSUES IN NEED OF FURTHER CLARIFICATION**

#### **Definitions (Article 1)**

It is good that the definitions are adjusted. However, some of the definitions might need further consideration. For example, the way in which Article 1 paragraph 1h on replica firearms is now written any children's toy weapon would belong to this category. And as the replicas are now inserted to the Annex 1, it might be interpreted that replicas are considered as firearms because Annex I defines that any of the objects which falls into the categories of the Annex I are firearms in the meaning of this Directive. Consequently, it is questioned whether obligations set for the brokers and dealers of firearms would apply to those buying or selling also toy weapons.

Another issue concerning the definitions is that in Article 1 paragraphs 1 a and 1 b seem to be somewhat overlapping. Concerning alarm and signal weapons (1f) and salute and acoustic weapons (1h), these should be so defined that they objects which cannot be converted to firing a shot or expelling a bullet or projectile by the action of a combustible propellant. It would be also interesting to hear the relationship between the definition of deactivated firearms(1 g) and salute and acoustic weapons (1i).

## **Marking and registration (Article 4)**

The new paragraph 1 Article 4 requires that also parts are marked and registered. (It does not say anything about essential components.) However, for some reasons the other provisions are silent about marking and registering parts. Therefore, the situation is left a bit open.

The proposed new paragraph 2 Article 4 requires that "Member States shall, at the time of manufacture of each firearm or at the time of import to the Union, require a unique marking..." This amendment has effect on the interpretation of the first paragraph in Article 4 which requires marking when firearm is "placed on the market". There should be a possibility to mark a firearm directly after it is imported to the Union. The wording in paragraph 1 is more suitable as it allows the marking when the firearm is placed on the market.

## **Administrative burden and financial costs**

The proposal did not include impact assessment. However, many of the amendments bring on financial costs to Member States, citizens or businesses. In addition, the amendments cause administrative burden.

The proposed new Article 5 requires standard medical tests for issuing or renewing authorizations for the acquisition and possession of firearms. These medical tests would cause additional costs to the citizens and additional costs and administrative burden to the national health care system. Finland does not consider standard medical tests as a reliable means of predicting future violent behaviour or acts of terrorism. Our recently amended Firearms act sets out an obligation for physicians to notify the police of a person, who, based on a forensic psychiatric examination or a standardized assessment of dangerousness and risk, has been deemed dangerous to him/herself or to others, or has been committed to involuntary treatment due to attempted suicide and whom the physician has deemed unfit to possess a firearm. The Act further provides for the right of physicians and other health care personnel to notify the police of a person who, based on medical records or an encounter with him/her, is deemed unfit to possess a firearm. Finland considers such a procedure to be the best means of ensuring that a person whom physicians have deemed unfit to possess a firearm is not authorised to acquire or possess one. In addition, setting the maximum limit of a authorization to 5 years in Article 7, will also create administrative burden.

Commission proposes to amend Annex I and move some firearms and ammunition to Category A (Prohibited firearms) and requires Member States to destroy and seize those firearms and ammunition (Article 6). Finland would like to hear how Member States are planning to implement this part of the proposal. Who would bear the costs arising from the seizure and destruction? How does this provision relate to the right to property (Article 17 of the Charter of Fundamental Rights of the European Union)?

Also the time left for implementation of this Directive is too short.



## FRANCE

Lors de la réunion du groupe GENVAL du 26 novembre 2015 consacrée à la révision de la directive 91/477, la Présidence a demandé aux Etats membres des commentaires sur les articles 1 et 2 de la proposition de révision de la directive (document 14422/15) examinés en séance.

De manière générale, les autorités françaises sont satisfaites de l'introduction et de l'approfondissement de certaines définitions (composants essentiels, armes neutralisées, armes à blanc, armes d'alarmes et de signalisation, courtier) qui conduisent à un élargissement du champ d'application de la directive.

### S'agissant de l'article 1.a :

Les autorités françaises avaient demandé (contribution 10883/15 du 15 juillet 2015) de revenir sur la distinction entre « parts » et « essential components » qui est source d'erreurs et qui rend possible la reconstitution d'une arme par l'achat de parties d'armes dans plusieurs pays européens.

Néanmoins, si la distinction entre « part » et « essential component » est conservée, il est important de les différencier et de donner à chacun un régime juridique différent. Les « parts » ne doivent pouvoir être acquises qu'en raison de la détention de l'arme. Les « essentials components » doivent être classés comme l'arme sur laquelle ils s'adaptent (voir infra 1.b).

### S'agissant de l'article 1.b

L'inclusion des silencieux comme élément essentiel est problématique étant donné qu'un même silencieux peut s'adapter sur des armes classées en catégories différentes.

Le plus opportun serait de ne pas classer les silencieux mais de créer une obligation à démontrer un titre de propriété (ou d'interdire).

### **Proposition de reformulation:**

*"For the purposes of this Directive, "essential component" shall mean the barrel, frame, receiver, slide or cylinder, bolt or breach block which, being separate objects, are included in the category of the firearms on which they are actually mounted or are intended to be mounted."*

S'agissant de l'article 1.e:

La définition proposée de « courtier » ne semble pas appropriée et ne couvre pas la réalité du courtage. Il semblerait judicieux de rajouter le domaine couvert par cette définition du courtage qui doit englober les armes, éléments essentiels d'armes et munitions. En outre, il devra être parfaitement clair que cette définition couvre également le courtage sur internet.

**Proposition de reformulation:**

*"For the purposes of this Directive, " broker " shall mean any natural or legal person, that connects a seller and a buyer of firearms, essential components or ammunitions who wish to contract and is remunerated for that purpose in any mean possible."*

S'agissant de l'article 1.f:

La définition proposée ne paraît pas judicieuse et semble trop restrictive.

**Proposition de reformulation:**

*"For the purposes of this Directive, "alarm weapons" shall mean object or device that may or may not have the appearance of a firearm, originally designed and intended to provoke only a sound or flash effect by the percussion of the ammunition and which characteristics exclude the firing or the conversion for the firing of any projectile, excluding all modified real firearms."*

S'agissant de l'article 1.g:

Il convient de noter que ce type d'armes a été utilisé lors des attentats de janvier 2015 à Paris. Le mode de fonctionnement (automatique, semi-automatique, répétition manuelle, coup par coup) reste fonctionnel. Seul un empêchement mécanique au passage de la balle est inséré qu'il est très facile de retirer pour un non professionnel, rendant ses caractéristiques initiales de létalité à l'arme.

## Proposition de reformulation

*“For the purposes of this Directive, "salute and acoustic weapons" shall mean firearms specifically converted for the sole use of firing blanks, for use in theatre performances, photographic sessions, movies and television recordings. These modified weapons remain in their original classification ».*

### S'agissant de l'article 1.h:

Il paraît nécessaire d'établir la différence entre la réplique d'une arme réelle (copie identique à une arme existante dans son modèle et son mode de fonctionnement), qui utilise des moyens pyrotechniques, et doit être classée comme le modèle original, et la réplique non constitutive d'une arme à feu (ex. jouet, ...) qui ne doit donc pas être incluse dans le champ de la directive.

Il serait par ailleurs opportun de parvenir à un consensus sur la notion de réplique d'armes historiques car ce terme n'est pas interprété uniformément au sein de l'UE.

En lien avec cette proposition, les autorités françaises ont demandé à plusieurs reprises d'inclure une définition des armes historiques et de collection dans la directive. Il conviendrait dès lors de délimiter temporellement la notion d'armes historiques en choisissant entre les dates proposées par la *Convention Schengen* ou par le *protocole des Nations Unies contre la fabrication et le trafic illicites d'armes à feu, de leurs pièces, éléments et munitions* que l'Union Européenne a signé. Pour mémoire :

- L'art 82 de la Convention Schengen dispose : "les armes à feu dont le modèle ou dont l'année de fabrication sont, sauf exception, antérieurs au 1<sup>er</sup> janvier 1870 sous réserve qu'elles ne puissent tirer des munitions destinées à des armes prohibées ou soumises à autorisation".
- L'art. 3.f) du règlement 258/2012 (protocole art 10) dispose : "... armes à feu anciennes et à leurs répliques telles qu'elles sont définies par la législation nationale, pour autant que les armes à feu anciennes n'incluent pas des armes à feu fabriquées après 1899".

S'agissant de l'article 1.i :

Il est nécessaire que ce paragraphe se réfère au règlement d'exécution sur la neutralisation des armes à feu.

### **Proposition de reformulation**

*“ For the purposes of this Directive, "deactivated firearm" shall mean firearm that has been modified according to the process and technics of deactivation adopted by the European Union , in order to be permanently unfit for use, ensuring that all essential parts of the firearm have been rendered permanently inoperable and incapable of removal, replacement or a modification that would permit the firearm to be reactivated in any way."*

S'agissant de l'article 1§2 :

Dans cette formulation des activités citées comme constitutives de la profession d'armurier, il manque la location, le leasing voire le prêt.

S'agissant paragraphe 2.(ii), il convient d'intégrer les « essential components » en plus des « parts » .

### **Proposition de reformulation**

*“the manufacture, trade, exchange, hiring out, repair or conversion of parts or essential components of firearms”.*

S'agissant de l'article 2§1

Le port et le transport d'arme au sein d'un Etat membre doivent être exclus du champ d'application de la directive

S'agissant de article 2§2 – dernière phrase relative aux armes et munitions de guerre

Le terme “*commercial transfers*” peut correspondre à deux cas de figure différents :

- si les transferts commerciaux désignent les transferts intracommunautaires, les autorités françaises estiment que le paragraphe 2§2 devrait se rapporter aux opérations visées par la directive 2009/43/CE simplifiant les conditions des transferts de produits liés à la défense dans l’Union, et ne pas mentionner le matériel (armes et munitions de guerre). A cet égard, la dernière phrase de l’article 2§2 pourrait être reformulée de la manière suivante :

*"Nor shall it apply transfers of weapons, accessories, specially designed components and ammunition within the scope of Directive 2009/43 /EC of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community “.*

- si les transferts commerciaux désignent les cessions commerciales, les autorités françaises considèrent qu’il serait indispensable de travailler à une définition des armes et des munitions de guerre, celles-ci n’étant pas parfaitement définies juridiquement. En l’espèce, il ne peut être fait référence à la Military List 1 pour asseoir la définition.

## GERMANY

The Federal Republic of Germany is pleased that the EU Commission presented a proposal for a directive amending the firearms directive. This draft can and must now serve as the basis for additional reviews to be conducted, among others, by technical experts from the Member States. Given the short amount of time available to us so far, we have not been able to fully review the proposal. The proposed amendments are comprehensive and must be carefully reviewed to avoid systematic and legal inconsistencies. The responsible German authorities will continuously deal with the draft and support the legislative process in a constructive manner.

As of now, Germany thinks that the following points require in-depth examination and discussion:

### 1. Deleting the provision on granting exceptional authorizations in the Member States: Article 6

#### (1)

The new version of Article 6 (1) leads to the omission of the previous provision according to which the MS authorities may grant, in special cases, authorizations for the acquisition and possession of prohibited firearms and types of ammunition where this is not contrary to public security and order.

The fact that it will no longer be possible to grant exceptional authorizations is not unproblematic in this absoluteness. There can be legitimate interests that require an exceptional authorization.

Examples include the manufacturing of prohibited weapons that are sold to authorities, expert activities, or the transport of prohibited weapons

It should therefore be discussed in which cases exceptional authorizations are necessary.

### 2. Prohibiting semi-automatic firearms resembling automatic firearms: Annex I, part II

Annex I is amended insofar as semi-automatic firearms for civilian use resembling automatic firearms now belong to category A and therefore are to be banned.

This provision is not comprehensible in its present shape. It is not based on the fact that, for construction reasons, the weapon is more dangerous. Instead, the provision is purely based on physical appearance and therefore does not lead to greater security. The reasoning of the draft does not clarify why this is the case. Furthermore, this arrangement is too imprecise to be a suitable ground for a ban: When would a semi-automatic firearm sufficiently resemble an automatic firearm? An arrangement that can be implemented in practice is of special significance because the Member States would have to terminate the possession of such weapons since, according to the draft, it is no longer possible to grant exceptional authorizations. Instead of the mere looks of a weapon, technical criteria should be decisive.

Therefore the provision requires further discussion.

### 3. Implementation deadline of three months following the entry into force of the amending directive: Article 2

According to Article 2 (1) of the amending directive, the Member States are required to bring into force the legal adjustments to their legal requirements, necessary as a result of the amendments, within three months of the publication of the amending directive in the OJ.

This deadline cannot be met in any circumstances. The Directive provides for comprehensive amendments which in turn will have extensive impact on the Member States' weapons legislation. First of all, these amendments must be transposed in the Member States' weapons legislation. This alone cannot be done within less than one year. In addition to comprehensive legal adjustments, the amendments also require the technical expansion of the computerized data-filing systems. From a German point of view, this will take at least two years – depending on the technical requirements.

4. Provisions regarding declaration obligations and inclusion in the data-filing systems: Article 4 (4)

Overall, it should be specified more clearly what kinds of firearms are to be included in the data-filing systems of the Member States. Pursuant to Article 4 (4) "each firearm" is to be included. The newly added weapon types (alarm and signal weapons, salute and acoustic weapons, replicas and deactivated weapons) are no firearms within the meaning of Article 1 (1). However, the recital no. 8 and the fact that these types of weapons are classified as belonging to categories A and C suggest that these types are also to be included in the data-filing systems of the Member States. This could be clarified in Article 4 (4).

From Germany's perspective, it requires further examination whether or not the planned inclusion of replicas and deactivated weapons will lead to greater security. The deactivation provisions of the implementing regulation of the Commission on the deactivation of firearms are intended to ensure that firearms are permanently rendered irreversibly inoperable. It requires further examination whether or not the investigative leads resulting from registration would justify the effort that would be caused by the registration.

It would not be a technical problem in Germany to also include alarm and signal weapons, salute and acoustic weapons in the national data-filing system. Since there are national plans to strengthen the Firearms Register, Germany is already working on possible technical solutions. If there was no retroactive inclusion and declaration obligations for dealers and manufacturers were adapted accordingly, it would not be too difficult for weapons authorities to manage the burden related to inclusion.



Furthermore, Germany thinks that the following points need to be clarified or adapted:

New Article 1 (1b): definition of essential components

So far, the following components were considered essential in the Directive: breach-closing mechanism, chamber, barrel. In the future, barrel, frame, receiver, slide or cylinder, bolt or breach block and silencer will be considered essential components. These are the components previously listed in Article 1 (1a).

As a consequence, the additional components now defined as being essential would also be subject to authorization, marking and registration obligations. If adequate technical solutions were available and there was no retroactive inclusion, it would not be too difficult for manufacturers and dealers to manage the burden related to inclusion. Against this backdrop, precise instructions for practical implementation are needed as they have not been fully provided yet (What is meant by "receiver"? The upper receiver, the lower receiver or both? What about the "chamber" which used to be considered essential? Was it removed deliberately or has it become part of another essential component?). It should therefore be examined whether it is possible to add a glossary to the Directive.

If paragraph 1b is rephrased, paragraph 1a (definition of parts) might also have to be adjusted.

New Article 1 (1e): definition of broker

The Commission should check whether the term "broker" should also cover persons whose business is to arrange the transfer of firearms, parts and ammunition from third countries to Member States.

The Article should be rephrased as follows:

“1e. For the purposes of this Directive, "broker" shall mean any natural or legal person, other than a dealer whose trade or business consists wholly or partly in buying, selling or arranging the transfer

- within a Member State,
- from a Member State to another Member State,
- from a Member State to a third country or
- **from a third country to a Member State**

fully assembled firearms, their parts and ammunition.”

New Article 1 (1f): definition of alarm and signal weapons

This provision essentially defines alarm and signal weapons as portable devices with a cartridge holder which were designed to fire blanks, irritants or pyrotechnic ammunition (and which never were, unlike salute and acoustic weapons, "real" weapons).

Such weapons should be designed in such a way that they cannot be reactivated with the help of conventional tools. This should be included in the definition. The purpose of this proposal is to make sure that alarm and signal weapons are added to category C (subject to declaration). However, if these weapons can easily be converted into real firearms, they should be treated as "real" firearms and added to category B (subject to authorization). It becomes obvious that this is in line with the purpose of the Directive when taking a look at the definition of firearm in Article 1 (1) which covers, among others, objects that can be converted into a firearm. The wording proposed below provides clarification:

“1f. For the purposes of this Directive, "alarm and signal weapons" shall mean portable devices with a cartridge holder having a gas exit to the front, aside or on the top, which

- are specifically designed and constructed for the purpose of raising alarm or sending a signal,
- are only designed to fire blanks, irritants, other active substances or pyrotechnic ammunition and
- **cannot be converted into a firearm with conventional tools.”**

The term "conventional tools" will be specified at a later point in time.

It should be checked whether it makes sense to introduce a provision stipulating that sizes of ammunition for alarm, signal, salute and acoustic weapons must not be identical to live ammunition sizes. The use of different ammunition sizes makes it more difficult to convert these weapons into "real" firearms because the use of live ammunition requires additional conversion steps.

#### New Article 1 (1g): definition of salute and acoustic weapons

This provision essentially defines salute and acoustic weapons as converted firearms used in the fields of theatre, photography and film production for the sole purpose of firing blanks.

Since salute weapons used to be "real" weapons, they tend to be easy to reactivate. According to German legislation, it is only permissible to convert long firearms into salute weapons. A corresponding provision should be examined at European level because long firearms tend to be less crime-relevant than short firearms.

The above-mentioned explanations regarding conversion safety and ammunition sizes apply accordingly.

Is the use of salute weapons in the fields of theatre, photography and film production just an example or the sole criterion? How would it be possible to prove the use of the weapon in this context?

#### New Article 1 (1h): Definition of replicas

The current definition of replicas covers all objects that cannot be converted into a firearm although they look like one. These objects include, among others, toys, air weapons and spring pressure weapons. There are reservations about adding them as replicas to category C.

It must be examined how the definition needs to be adapted. An adequate wording will be proposed at a later point in time.

#### New Article 1 (1i): definition of deactivated firearms

Reference should be made to the implementing regulation of the Commission on deactivation. In the future, only weapons that have been processed in line with the requirements of the implementing regulation will be considered deactivated.

#### New article 4 (1): obligation to mark firearms and parts

Any firearm or part placed on the marked should be marked and registered in compliance with the Directive.

Depending on the definition provided in Article 1 (1b), it might be advisable to refer to essential components. The new Article 1 (1b) covers all parts of a firearm necessary for its functioning. Should it be necessary to also mark other components of a weapon (individual screws, springs, etc.), this would require more efforts but would not lead to greater security.

The Directive does not contain requirements specifying how to avoid that markings are easily erased, although this is announced in recital no. 10. From a German point of view, it would be sufficient to require the marking to be permanently affixed in a recognized procedure in line with the state of the art. More extensive provisions would likely result in overregulation. Furthermore, it must still be possible to use different marking methods (e.g. stamping, laser engraving) because not all methods work for all components.

#### New Article 4 (2): marking requirements

The data to be affixed with the marking remain unchanged. All markings must now be affixed to the receiver. Packages of ammunition will be marked as usual. References to the CIP Convention are deleted (for both markings of firearms and markings of ammunition). The provision on transfer of firearms from government stocks to permanent civilian use remains largely unchanged.

Even if the data to be affixed with the marking remain unchanged, we think that the Commission should examine whether the marking particulars used so far permit ready identification and traceability as expected and required by the Directive. Examinations in connection with Germany's Firearms Register showed that this is by no means always the case. Therefore, we plan to assign a unique identification number to each firearm in Germany's Firearms Register in addition to the markings required by the EU and weapons law to ensure that each firearm recorded in the Firearms Register can be clearly identified. The Commission could consider whether a similar unambiguous identification of firearms should be introduced in the EU.

We should further discuss the issue of affixing the marking to the receiver. How do we mark firearms which are designed without a receiver (e.g. revolvers)? In these cases, an alternative should be available.

We need to examine whether information on the calibre should also be included in the marking. The calibre is a piece of information that must be recorded in the data-filing systems in line with no. 4.

It is unclear why the references to the CIP Convention are deleted. Eleven Member States are also CIP members and obliged to comply with the pertinent provisions. Therefore, this option should be maintained.

We would like to ask the Commission to examine whether a ban can be introduced for transfers from government stocks to permanent civilian use, subject to suitable competences. Although the current provision still follows the wording of the UN Firearms Protocol, the dissolution of government stocks should not promote civilian armament.

#### New Article 4 (4): Member States' data-filing systems

The data to be stored in the filing systems remain unchanged. The retention period is increased from now 20 years to the lifespan of the firearm. The requirement that the registers of dealers and brokers must be connected to filing systems has been added to the current wording.

The provision on retention periods corresponds to the provision in the Act Establishing a National Firearms Register, specifying that firearms must not be removed from the register.

We expressly welcome the provision to connect dealers and brokers to the filing systems. In Germany, we plan to implement a technical solution that requires dealers and manufacturers to report their manufactured and traded firearms via a headend directly to the filing system for IT security reasons (without giving them access to data in the filing system).

#### New Article 4b: checking dealers and brokers

The obligation of Member States to create a system regulating the activities of brokers is extended to include dealers. The procedure to authorize trading and brokering activities is to include a check of the natural and legal person.

However, in the case of legal persons it is unclear what has to be checked because there are no provisions like those in Article 5 for natural persons.

Paragraph 2 repeats the new Article 4 (3) which, as far as checking legal persons is concerned, refers to the check on the natural person who directs the undertaking.

#### New Article 5: prerequisites for authorization

Article 5 (1) remains unchanged. The provision on the withdrawal of authorizations has been deleted from paragraph 2. The new paragraph 2 provides for a mandatory medical test before authorizations are issued or renewed.

Why was the previous provision on the withdrawal of authorizations deleted? In Germany's view, stricter national provisions on withdrawal remain possible within the meaning of Article 3.

The type and objective of the medical tests need to be further specified. Does this refer to psychological tests? To what extent should authorities be given access to test results? Mandatory psychological examinations would not be acceptable from our perspective.

#### New Article 6: ban on category A firearms and acquisition by distance communication

The provision on exceptional authorizations for prohibited firearms has been deleted from Article 6 (1). The new paragraph 2 includes a provision specifying that museums may keep prohibited firearms only if these firearms have been deactivated. Paragraph 3 limits acquisition by distance communication to dealers and brokers.

The provision on the possession of prohibited firearms by museums might be a case of overregulation. Are there reports about firearms which disappeared from museums so that such a provision seems necessary?

We cannot agree to the deletion of the provision on exceptional authorizations (see above).

Online business has proven susceptible to abuse. We therefore support adopting provisions in this area. However, the scope of the proposed ban on acquisition by distance communication is not entirely clear: Should consumers be excluded from online business altogether (only business-to-business trade) or should they be allowed to acquire firearms, but only from dealers? The distinction will also have to depend on whether dealers have better means to check the permission to acquire firearms of potential customers than private parties, for example.

In the course of strategic considerations on expanding the National Firearms Register, the relevant associations explicitly asked us to enable them to check the validity of authorizations of their business partners. Subject to a data protection assessment, this could be technically implemented quite easily during a possible upgrade of the register, for example through a certificate check.

New Article 7 (4): maximum limits for authorizations

The new provision introduces a renewable maximum limit of five years for firearms authorizations.

We agree that an authorization should not apply for an unlimited period without verification of whether the conditions for an authorization continue to be fulfilled. However, it should be discussed whether or not verifying these conditions at certain intervals is sufficient.

New Article 10a: preventing conversion of alarm, signal, salute and acoustic weapons:

The new provision requires Member States to take measures to prevent the aforementioned types of weapons from being converted into firearms. The Commission is given the power to adopt relevant technical specifications in an implementing act.

Germany welcomes European provisions on standards for the aforementioned types of weapons. In this area, harmonizing standards at a high level can achieve greater security, in particular by preventing these types of weapons from being converted into “real” firearms. We have reservations about conferring the power to adopt technical specifications for alarm, signal, salute and acoustic weapons in an implementing act. Specifications that seriously affect the manufacturers of such objects should be made in a conventional legislative process. Moreover, permanent provisions which do not need regular updates should be adopted in this area. These provisions can be included in an annex to the directive.

New Article 10b: deactivating firearms

The provision requires Member States to verify and attest the deactivation of firearms and gives the Commission the power to adopt implementing acts on deactivation.

It should be discussed whether or not the provision governing Member States' obligations should be deleted because it has become obsolete given the recently adopted implementing regulation on deactivation. In addition, the draft currently requires Member States to issue a certificate after verification OR to affix a mark to that effect. However, both actions need to be carried out together. If the provision is maintained, the wording should be as follows:

“[...] provide for the issuance of a certificate or record attesting to the deactivation of the firearm and the apposition of a clearly visible mark to that effect on the firearm.”



#### New Article 13 (4) and (5): exchanging information on authorizations granted

By adding the new paragraphs 4 and 5, the Commission is empowered to adopt delegated acts to determine the modalities of exchanging information about granted and refused authorizations to transfer, acquire and possess firearms.

In our view, we need to thoroughly examine whether the provision provides any additional benefit. We would like to ask the Commission to express its opinion on the following questions: Should authorizations to transfer firearms as well as authorizations to acquire and possess firearms be recorded? How should the refusal to grant authorization be recorded (in Germany, bans on possessing firearms and the withdrawal of an authorization are recorded in the Firearms Register but not the mere refusal to grant an authorization)? Do you have figures on attempts to acquire firearms in several Member States? What is the merit of knowing that another Member State has refused authorization if the Member State concerned must in each individual case verify itself whether the requirements for authorization are fulfilled? Does the Commission already have ideas how the information exchange could take place?

Since Article 17 includes a “review clause” for the Commission specifying that the necessary elements of a system for the exchange of information contained in the Member States' individual data-filing systems should be assessed, it should also be examined whether a separate “filing system for authorizations” would be necessary when connecting these data-filing systems.

#### New Article 13a: Commission's power to adopt delegated acts

We have reservations about conferring a general power to adopt delegated acts. It should be specified in which areas the Commission should be allowed to adopt provisions.

#### New Article 17: Commission's obligation to report and assess

According to this article, the Commission is obliged to report every five years on the application of the directive and assess the exchange of information in the data-filing systems, accompanied, if appropriate, by a legislative proposal.

The reporting obligation is not critical. The assessment of the exchange of information contained in the filing systems depends on the individual case. In Germany's view, uniform (data exchange) standards would have to be established when connecting the filing systems.

### New category A: additional prohibited firearms

It is planned to prohibit the following firearms: automatic firearms which have been converted into semi-automatic firearms; semi-automatic firearms which resemble weapons with automatic mechanisms; firearms under category A after having been deactivated.

From a security point of view prohibiting automatic firearms which have been converted into semi-automatic firearms deserves consideration. At least certain automatic firearms converted into semi-automatic firearms are more likely to have their automatic firing capability restored.

Prohibiting semi-automatic firearms which resemble weapons with automatic mechanisms is not reasonable (see above).

Whether or not prohibiting the acquisition and possession of deactivated prohibited firearms has to be mandatory needs to be examined.

### New category C: alarm, signal, salute and acoustic firearms, replicas and certain deactivated firearms subject to declaration

The amendment of category C renders alarm, signal, salute and acoustic firearms, replicas and certain deactivated firearms subject to declaration.

The need for deactivated firearms and replicas to be subject to declaration requires further examination. Viewed objectively, both types of firearms are not dangerous(see above).

### Annex I part II point B:

The paragraph is deleted because essential parts have been newly defined (new Article 1b). Since its entire wording is deleted, point B can be removed as a whole so that it is no longer necessary to divide Annex I part II into points A and B.

### Article 2: entry into force

We cannot agree to the provision on the entry into force (see above).

Article 2 (1), second sentence, and Article 2 (2) include repetitions.

## GREECE

Our Country, generally sees positively the draft amending Directive 91/477/ EEC on control of the acquisition and possession of firearms , since base is given on information exchange, better control of transport, tracing of firearms and curtailing their purchase over the internet. Many changes-additions in the proposal are already included in our national legislation. Some points need better explanation and analysis on the part of the Committee, as described below:

1. Gas-alarm weapons, flare-signal weapons, and replicas, are already included in our national legislation. They must be given further definition and clarification from the Commission since:
  - a) In Article 1, paragraph 1f where the concept - definition of «Alarm and Signal Weapons» is given, it is not clear whether it refers only to «Flare - Signal Weapons» meaning weapons using flares etc for signaling, or also to «Gas Alarm Weapons», since in the definition given for weapons in category «Alarm and Signal Weapons» describes them to be designed to fire apart from blanks cartridges and cartridges with «irritants» substances or other pyrotechnic ammunition.
  - b) Regarding the addition of paragraph 1g, stating «Salute and Acoustic Weapons» which are suitably modified weapons to fire blanks cartridges for theater performances etc, there should be more accurate identification of the type of such weapons and to provide examples and technical data in order to understand exactly what type of weapons the draft refers to.
  - c) About the addition 5 in category C (apart from the clarifications to be made for «Alarm and Signal Weapons» and «Salute and Acoustic Weapons»), we believe that there should be greater clarity in the definition given for replicas. Since they will belong to a category of weapons of the Directive, the definition must be specific and not cause confusion as to which weapons fall into this definition.
  - d) In any case, for all the above additions, the details need to be clarified, on how to ensure that these weapons can not be converted into active firearms, as described in the draft of the Directive, and the role of the committee on this. Note that «Gas Alarm Weapons» are not for civilian use in our country and we want this to remain as is.

2. Deactivated firearms: For firearms in category A, the proposal states that they have to remain in category A and firearms in category B to be transferred in category C, after being deactivated. That means that they would still be considered as firearms even after deactivation.
  - However, the regulation in signing, of Deactivation of firearms, clearly provides the procedures for deactivation and issuing certificates, of both Cat. A, and Cat. B firearms.
  - Our department agrees with the contents of the proposal on this matter, but should be put into consideration that, if ratified, it would contradict the regulation of Deactivation of firearms, as is, on the prohibited of category A firearms.
3. There should be given a more detailed description on the addition of semi-automatic firearms, which 'resemble' firearms with automatic mechanisms, in Category A, because there will be problems with firearms being already on the market. It has to be determined which types of weapons are mentioned here (pistols, rifles, etc.).
4. In Article 6, expressly provide for the prohibition on acquisition and selling of firearms concerning categories A, B and C by means of distance communication, by civilians and between them.
5. The period of three months, for adapting the Directive into national legislation is too small.
6. Closing, while understanding the need to speed up procedures, our department's assessment is that the technical details of the whole issue should be examined and specialized at experts level, to avoid any descriptive failures and confusion.

Following our preliminary comments, concerning the draft amending Directive 91/477/ EEC on control of the acquisition and possession of firearms, we submit additional comments for the revised Article 6 of the draft proposal.

- In particular, the revised version of Article 6 (1) of the Directive, omits the provision that: "In special cases the competent authorities may grant authorizations for such firearms and ammunition, where this is not contrary to public security or public order".
- Our point of view is that, since there are legitimate interests of non-public, private, banks, organizations and businesses, of particularly high value and importance, which require the exceptional authorization for such firearms concerning their security needs, it should be discussed at which exceptional cases, it is necessary to keep the possibility for the Member States, to grant such authorizations.

## LITHUANIA

### COUNCIL DIRECTIVE of 18 June 1991 on control of the acquisition and possession of weapons

(91/477/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

In cooperation with the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas Article 8a of the Treaty provides that the internal market must be established by not later than 31 December 1992; whereas the internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured, in accordance with the provisions of the Treaty;

Whereas, at its meeting in Fontainebleau on 25 and 26 June 1984, the European Council expressly set the objective of abolishing all police and customs formalities at intra-Community frontiers;

Whereas the total abolition of controls and formalities at intraCommunity frontiers entails the fulfilment of certain fundamental conditions; whereas in its white paper 'Completing the internal market' the Commission stated that the abolition of controls on the safety of objects transported and on persons entails, among other things, the approximation of weapons legislation;

Whereas abolition of controls on the possession of weapons at intraCommunity frontiers necessitates the adoption of effective rules enabling controls to be carried out within Member States on the acquisition and possession of firearms and on their transfer to another Member State; whereas systematic controls must therefore be abolished at intra-Community frontiers;

Whereas the mutual confidence in the field of the protection of the safety of persons which these rules will generate between Member States will be the greater if they are underpinned by partially harmonized legislation; whereas it would therefore be useful to determine category of firearms whose acquisition and possession by private persons are to be prohibited, or subject to authorization, or subject to declaration;

Whereas passing from one Member State to another while in possession of a weapon should, in principle, be prohibited; whereas a derogation therefrom is acceptable only if a procedure is adopted that enables Member States to be notified that a firearm is to be brought into their territory;

Whereas, however, more flexible rules should be adopted in respect of hunting and target shooting in order to avoid impeding the free movement of persons more than is necessary;

Whereas the Directive does not affect the right of Member States to take measures to prevent illegal trade in weapons,

(1) OJ No C 235, 1.9.1987, p. 8 and OJ No C 299, 28.11.1989, p. 6.

(2) OJ No C 231, 17.9.1990, p. 69 and OJ No C 158, 17.6.1991, p. 89.

(3) OJ No C 35, 8.2.1988, p. 5.

▼B

HAS ADOPTED THIS DIRECTIVE:

## CHAPTER 1 **Scope**

### *Article 1*

▼ M1

1. For the purposes of this Directive, 'firearm' shall mean any portable barrelled weapon that expels, is designed to expel ~~or may be converted to expel~~ a shot, bullet or projectile by the action of a combustible propellant, unless it is excluded for one of the reasons listed in Part III of Annex I. Firearms are classified in part II of Annex I.

**LT:** *Recently there are two definitions of firearms in the directive. The first one is in the Article 1 (I) and the second one in the Annex I (II).*

*These two definitions are different. It is unclear which definition should be followed. On the other hand the directive defines a firearm as a weapon which can be converted with a view to shooting bullets. In our opinion, this part of definition isn't clear. Many devices can be converted. It is very important to define firearms very precisely in the directive, because we need to know what kind of devices are required to control. So our proposal is to leave only one definition of the firearm (in the annex of the directive) or to delete provisions related to the possibility to convert a firearm.*

~~For the purposes of this Directive, an object shall be considered as capable of being converted to expel a shot, bullet or projectile by the action of a combustible propellant if:~~

- ~~— it has the appearance of a firearm, and~~
- ~~— as a result of its construction or the material from which it is made, it can be so converted.~~

**LT:** *These criteria of convertible firearms are designated for alarm and signal weapons. But there is separate definition for alarm and signal weapons. So there is no need to have these criteria in the definition of firearm.*

1a. For the purposes of this Directive, 'part' shall mean any element or replacement element specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound caused by firing a firearm.

1b. For the purposes of this Directive, 'essential component' shall mean the barrel, frame, receiver, slide or cylinder, bolt or breach block and any device designed or adapted to diminish the sound caused by firing a firearm which, being separate objects, ~~breach-closing mechanism, the chamber and the barrel of a firearm which, being separate objects,~~ are included in the category of the firearms on which they are or are intended to be mounted.

1c. For the purposes of this Directive, 'ammunition' shall mean the complete round or the components thereof, including cartridge cases, primers, propellant powder, bullets or projectiles, that are used in a firearm, provided that those components are themselves subject to authorisation in the relevant Member State.



1d. For the purposes of this Directive, 'tracing' shall mean the systematic tracking of firearms and, where possible, their parts and ammunition from manufacturer to purchaser for the purpose of assisting the competent authorities of Member States in detecting, investigating and analysing illicit manufacturing and illicit trafficking.

1e. For the purposes of this Directive, 'broker' shall mean any natural or legal person, other than a dealer, whose trade or business consists wholly or partly in the buying, selling or arranging the transfer of weapons within a Member State, from one Member State to another Member State or exporting to a third country fully assembled firearms, their parts and ammunition:

1f. For the purpose of this Directive, 'alarm and signal weapons' shall mean portable devices with a cartridge holder having a gas exit to the front, aside or on the top, which are specifically designed and constructed for the purpose of raising alarm or sending a signal and which are only designed to fire blanks, irritants, other active substances or pyrotechnic ammunitions.

1g. For the purpose of this Directive, 'salute and acoustic weapons' shall mean firearms specifically converted for the sole use of firing blanks, for use in theatre performances, photographic sessions, movies and television recordings.

1h. for the purposes of this Directive, 'replica firearms' shall mean objects that have the physical appearance of a firearm, but are manufactured in such a way that they cannot be converted to firing a shot or expelling a bullet or projectile by the action of a combustible propellant.

1i. For the purposes of this Directive, 'deactivated firearms' shall mean firearms that have been modified with the purpose of rendering them permanently unfit for use by deactivation, ensuring that all essential parts of the firearm have been rendered permanently inoperable and incapable of removal, replacement or a modification that would permit the firearm to be reactivated in any way.'

2. For the purposes of this Directive, 'dealer' shall mean any natural or legal person whose trade or business consists wholly or partly in any of the following:

(i) the manufacture, trade, exchange, hiring out, repair or conversion of firearms;

(ii) the manufacture, trade, exchange, hiring out, repair or conversion of parts of firearms;

(iii) the manufacture, trade, exchange or conversion of ammunition, ~~parts and ammunition.~~

2a. For the purposes of this Directive, 'illicit manufacturing' shall mean the manufacturing or assembly of firearms, their parts and ammunition:

(i) from any essential component of such firearms illicitly trafficked;

(ii) without an authorisation issued in accordance with Article 4 by a competent authority of the Member State where the manufacture or assembly takes place; or

(iii) without marking the assembled firearms at the time of manufacture in accordance with Article 4(1).

▼ **M1**

2b. For the purposes of this Directive, 'illicit trafficking' shall mean the acquisition, sale, delivery, movement or transfer of firearms, their parts or ammunition from or across the territory of one Member State to that of another Member State if any one of the Member States concerned does not authorise it in accordance with the terms of this Directive or if the assembled firearms are not marked in accordance with Article 4(1).

▼ **B**

3. For the purposes of this Directive, a person shall be deemed to be a resident of the country indicated by the address appearing on a document establishing his place of residence, such as a passport or an identity card, which, on a check on possession or on acquisition, is submitted to the authorities of a Member State or to a dealer.

▼ M1

4. A 'European firearms pass' shall be issued on request by the authorities of a Member State to a person lawfully entering into possession of and using a firearm. It shall be valid for a maximum period of five years, which may be extended, and shall contain the information set out in Annex II. It shall be non-transferable and shall record the firearm or firearms possessed and used by the holder of the pass. It must always be in the possession of the person using the firearm and any change in the possession or characteristics of the firearm, as well as the loss or theft thereof, shall be indicated on the pass.

*Article 2*

1. This Directive is without prejudice to the application of national provisions concerning the carrying of weapons, hunting or target shooting.
2. This Directive shall not apply to the acquisition or possession of weapons and ammunition, in accordance with national law, by the armed forces, the police, the public authorities, ~~or by collectors and bodies concerned with the cultural and historical aspects of weapons and recognized as such by the Member State in whose territory they are established.~~ Nor shall it apply to commercial transfers of weapons and ammunition of war.

*Article 3*

Member States may adopt in their legislation provisions which are more stringent than those provided for in this Directive, subject to the rights conferred on residents of the Member States by Article 12 (2).

CHAPTER 2

**Harmonization of legislation concerning firearms**

▼ M1

#### Article 4

Member States shall ensure ~~either~~ that any firearm or part placed on the market has been marked and registered in compliance with this Directive, ~~or that it has been deactivated.~~

1. For the purpose of identifying and tracing each assembled firearm, Member States shall, at the time of manufacture of each firearm or at the time of import to the Union ~~either~~:

2. ~~(a)~~ require a unique marking, including the name of the manufacturer, the country or place of manufacture, the serial number and the year of manufacture ~~(if not part of the serial number)~~. This shall be without prejudice to the affixing of the manufacturer's trademark.

#### ▼ M1

~~For these purposes, the Member States may choose to apply the provisions of the Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms; or~~

~~(b) maintain any alternative unique user-friendly marking with a number or alphanumeric code, permitting ready identification by all States of the country of manufacture.~~

~~The marking shall be affixed to an essential component of the firearm, the destruction of which would render the firearm unusable~~the receiver of the firearm.

Member States shall ensure that each elementary package of complete ammunition is marked so as to provide the name of the manufacturer, the identification batch (lot) number, the calibre and the type of ammunition. ~~For these purposes Member States may choose to apply the provisions of the Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms.~~

Furthermore, Member States shall ensure, at the time of transfer of a firearm from government stocks to permanent civilian use, ~~the appropriate~~ unique marking permitting identification ~~by States of the transferring country~~government.

3. Member States shall make the pursuit of the activity of dealer or broker within their territory conditional upon authorisation on the basis of at least a check of the private and professional integrity and of the abilities of the dealer or broker. In the case of a legal person, the check shall be on the person who directs the undertaking.

4. Member States shall, by 31 December 2014, ensure the establishment and maintenance of a computerised data-filing system, either a centralised system or a decentralised system which guarantees to authorised authorities access to the data-filing systems in which each firearm subject to this Directive shall be recorded. This filing system shall record ~~and maintain for not less than 20 years~~ each firearm's type, make, model, calibre and serial number, as well as the names and addresses of the supplier and the person acquiring or possessing the firearm. The record of firearms, including deactivated firearms, shall be maintained until destruction of the firearm has been certified by the competent authorities.

Throughout their period of activity, dealers and brokers shall be required to maintain a register in which all firearms subject to this Directive and which are received or disposed of by them shall be recorded, together with such particulars as enable the firearm to be identified and traced, in particular the type, make, model, calibre and serial number thereof and the names and addresses of the persons supplying and acquiring it.

Upon the cessation of his activities, the dealer or broker shall deliver the register to the national authority responsible for the filing system provided for in the first subparagraph4.

Each Member State shall ensure that the registries of the dealers and brokers established in their territory are connected to the computerized data-filing system of firearms.

5. Member States shall ensure that all firearms may be linked to their owner at any moment. However, as regards firearms classified in category D, Member States shall, as from 28 July 2010, put into place appropriate tracing measures, including, as from 31 December 2014, measures enabling linking at any moment to the owner of firearms placed on the market after 28 July 2010.

#### *Article 4a*

Without prejudice to Article 3, Member States shall allow the acquisition and possession of firearms only by persons who have been granted a licence or, with respect to categories C or D, who are specifically permitted to acquire and possess such firearms in accordance with national law.

▼ M1

*Article 4b*

1. Member States shall ~~consider~~ establishing a system for the regulation of the activities of brokers and dealers. Such a system might include one or more of the following measures ~~such as~~:

(a) ~~requiring the~~ registration of brokers and dealers operating within their territory;

(b) ~~requiring the~~ licensing or authorisation of the activities ~~of~~ brokers and dealers.

2. The system referred to in paragraph 1 shall include at least a check of the private and professional integrity and of the abilities of the dealer or broker. In the case of a legal person, the check shall be on the legal person and on the person who directs the undertaking.

*Article 5*

1. Without prejudice to Article 3, Member States shall ~~permit~~ authorize the acquisition and possession of firearms only by persons who have good cause and who:

(a) are at least 18 years of age, except in relation to the ~~acquisition, other than through purchase, and~~ possession of firearms for hunting and target shooting, provided that in that case persons of less than 18 years of age have parental permission, or are under parental guidance or the guidance of an adult with a valid firearms or hunting licence, or are within a licenced or otherwise approved training centre;

(b) are not likely to be a danger to themselves, to public order or to public safety. Having been convicted of a violent intentional crime shall be considered as indicative of such danger.

(c) has proper conditions for keeping firearms

**LT:** *In order to ensure safety of legally obtained firearms (theft protection) we propose to set up obligation to the holder of firearm to have proper condition for keeping firearms.*

2. Member States shall provide for standard medical tests for issuing or renewing authorization as referred to in paragraph 1 and shall ~~may~~ withdraw authorisations for possession of a firearm if any of the conditions on the basis of which it was granted ~~are no longer satisfied~~ is no longer met.

Member States may not prohibit persons resident within their territory from possessing a weapon acquired in another Member State unless they prohibit the acquisition of the same weapon within their own territory.

▼B

*Article 6*

Member States shall take all appropriate steps to prohibit the acquisition and the possession of the firearms and ammunition classified in category A and to destroy those firearms and ammunition held in violation of this provision and seized. ~~In special cases, the competent authorities may grant authorizations for such firearms and ammunition where this is not contrary to public security or public order.~~

Member States may authorise bodies concerned with the cultural and historical aspects of weapons and recognised as such by the Member State in whose territory they are established to keep in their possession firearms classified in category A acquired before [the date of entry into force of this Directive] provided they have been deactivated in accordance with the provisions that implement Article 10(b).

The acquisition and selling of firearms and their parts and ammunition concerning categories A, B and C by means of distance communication, as defined in Article 2 of Directive 97/7/EC of the European Parliament and of the Council <sup>(1)</sup>, shall be authorised only with respect to dealers and brokers and shall be subject to the strict control of the Member States.

**LT:** *It is important to prohibit not only acquisition but also selling of firearms through internet.*

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<sup>(1)</sup> Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts (OJ L 144, 4.6.1997, o.19)

▼ *M1*

~~Member States shall ensure that, except with respect to dealers, the acquisition of firearms and their parts and ammunition by means of distance communication, as defined in Article 2 of Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts <sup>(<sup>+</sup>)</sup>, shall, where authorised, be strictly controlled.~~

*Article 7*

1. No one may acquire a firearm classified in category B within the territory of a Member State unless that Member State has so authorized him.

No such authorization may be given to a resident of another Member State without the latter's prior agreement.

<sup>(<sup>+</sup>)</sup> OJ L 144, 4.6.1997, p. 19. Directive as last amended by Directive 2005/29/EC (OJ L 149, 11.6.2005, p. 22).

▼ B

2. No one may be in possession of a firearm classified in category B within the territory of a Member State unless that Member State has so authorized him. If he is a resident of another Member State, that other Member State shall be informed accordingly.

3. An authorization to acquire and an authorization to possess a firearm classified in category B may take the form of a single administrative decision.

▼ M1

4. Member States may consider granting persons who satisfy the conditions for the granting of an authorisation for a firearm a multi-annual licence for the acquisition and possession of all firearms subject to authorisation, without prejudice to:

- (a) the obligation to notify the competent authorities of transfers;
- (b) the periodic verification that those persons continue to satisfy the conditions; and
- (c) the maximum limits for possession laid down in national law.



The maximum limits shall not exceed five years. The authorisation may be renewed if the conditions on the basis of which it was granted are still fulfilled.

5. Member States shall adopt rules to ensure that persons holding authorisations for firearms of category B in force under national law as at 28 July 2008 do not need to apply for a licence or permit regarding firearms they hold in categories C or D due to the entry into force of Directive 2008/51/EC of the European Parliament and of the Council of 21 May 2008 <sup>(1)</sup>. However, any subsequent transfer of firearms of categories C or D shall be subject to the transferee obtaining or having a licence or being specifically permitted to possess those firearms in accordance with national law.

#### *Article 8*

1. No one may be in possession of a firearm classified in category C unless he has declared it to the authorities of the Member State in which that firearm is held.

The Member States shall provide for the compulsory declaration of all firearms classified in category C at present held within their territories but not previously declared within one year of the entry into force of the national provisions transposing this Directive.

2. Every seller, dealer or private person shall inform the authorities of the Member State in which it takes place of every transfer or handing over of a firearm classified in category C, giving the particulars by which the firearm and the person acquiring it may be identified. If the person acquiring such a firearm is a resident of another Member State, that other Member State shall be informed of the acquisition by the Member State in which it took place and by the person acquiring the firearm.

3. If a Member State prohibits or makes subject to authorization the acquisition and possession within its territory of a firearm classified in category B, C or D, it shall so inform the other Member States, which shall expressly include a statement to that effect on any European firearms pass they issue for such a firearm, pursuant to Article 12 (2).

## *Article 9*

1. The handing over of a firearm classified in category A, B or C to a person who is not resident in the Member State in question shall be permitted, subject to compliance with the obligations laid down in Articles 6, 7 and 8:

(<sup>1</sup>) OJ L 179, 8.7.2008, p. 5.

### ▼B

- where the person acquiring it has been authorized in accordance with Article 11 himself to effect a transfer to his country of residence,
  - where the person acquiring it submits a written declaration testifying to and justifying his intention to be in possession of the firearm in the Member State of acquisition, provided that he fulfils the legal conditions for possession in that Member State.
2. Member States may authorize the temporary handing over of firearms in accordance with procedures which they shall lay down.

## *Article 10*

The arrangements for the acquisition and possession of ammunition shall be the same as those for the possession of the firearms for which the ammunition is intended.

### Article 10a

Member States shall take measures to ensure that alarm and signal weapons as well as salute and acoustic weapons cannot be converted into firearms.

The Commission shall adopt technical specifications for alarm and signal weapons as well as for salute and acoustic weapons to ensure they cannot be converted into firearms.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13b(2).

## Article 10b

Member States shall make arrangements for the deactivation of firearms to be verified by a competent authority in order to ensure that the modifications made to a firearm render it irreversibly inoperable. Member States shall, in the context of this verification, provide for the issuance of a certificate or record attesting to the deactivation of the firearm or the apposition of a clearly visible mark to that effect on the firearm.

The Commission shall adopt deactivation standards and techniques to ensure that deactivate firearms are rendered irreversibly inoperable. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13b(2).

## CHAPTER 3

### **Formalities for the movement of weapons within the Community**

#### *Article 11*

1. Firearms may, without prejudice to Article 12, be transferred from one Member State to another only in accordance with the procedure laid down in the following paragraphs. These provisions shall also apply to transfers of firearms following a mail order sale.

2. Where a firearm is to be transferred to another Member State, the person concerned shall, before it is taken there, supply the following particulars to the Member State in which such firearm is situated:

- the names and addresses of the person selling or disposing of the firearm and of the person purchasing or acquiring it or, where appropriate, of the owner,
- the address to which the firearm is to be consigned or transported,
- the number of firearms to be consigned or transported,
- the particulars enabling the firearm to be identified and also an indication that the firearm has undergone a check in accordance with the Convention of 1 July 1969 on the Reciprocal Recognition of Proofmarks on Small Arms,
- the means of transfer,
- the date of departure and the estimated date of arrival.

The information referred to in the last two indents need not be supplied where the transfer takes place between dealers.

The Member State shall examine the conditions under which the transfer is to be carried out, in particular with regard to security.

Where the Member State authorizes such transfer, it shall issue a licence incorporating all the particulars referred to in the first subparagraph. Such licence shall accompany the firearm until it reaches its destination; it shall be produced whenever so required by the authorities of the Member States.

3. In the case of transfer of the firearms, other than weapons of war, excluded from the scope of this Directive pursuant to Article 2 (2), each Member State may grant dealers the right to effect transfers of firearms from its territory to a dealer established in another Member State without the prior authorization referred to in paragraph 2. To that end it shall issue an authorization valid for no more than three years, which may at any time be suspended or cancelled by reasoned decision. A

▼ B

document referring to that authorization must accompany the firearm until it reaches its destination; it must be produced whenever so required by the authorities of the Member States.

▼ M1

Prior to the date of transfer, the dealer shall communicate to the authorities of the Member State from which the transfer is to be effected all the particulars listed in the first subparagraph of paragraph 2. Those authorities shall carry out inspections, where appropriate on the spot, to verify the correspondence between the information communicated by the dealer and the actual characteristics of the transfer. The information shall be communicated by the dealer within a period allowing sufficient time.

▼ B

4. Each Member State shall supply the other Member States with a list of firearms the transfer of which to its territory may be authorized ◀ without its prior consent.

Such lists of firearms shall be communicated to dealers who have obtained approval for transferring firearms without prior authorization under the procedure laid down in paragraph 3.

*Article 12*

1. If the procedure provided for in Article 11 is not employed, the possession of a firearm during a journey through two or more Member States shall not be permitted unless the person concerned has obtained the authorization of each of those Member States.

Member States may grant such authorization for one or more journeys for a maximum period of one year, subject to renewal. Such authorizations shall be entered on the European firearms pass, which the traveller must produce whenever so required by the authorities of the Member States.

2. ► **M1** Notwithstanding paragraph 1, hunters, in respect of categories C and D, and marksmen, in respect of categories B, C and D, may, without prior authorisation, be in possession of one or more firearms during a journey through two or more Member States with a view to engaging in their activities, provided that they are in possession of a European firearms pass listing such firearm or firearms and provided that they are able to substantiate the reasons for their journey, in particular by producing an invitation or other proof of their hunting or target shooting activities in the Member State of destination.

Member States may not make acceptance of a European firearms pass conditional upon the payment of any fee or charge. ◀

However, this derogation shall not apply to journeys to a Member State which prohibits the acquisition and possession of the firearm in question or which, pursuant to Article 8 (3), makes it subject to authorization; in that case, an express statement to that effect shall be entered on the European firearms pass.

In the context of the report referred to in Article 17, the Commission in consultation with the Member States, will also consider the effects of applying the second subparagraph, particularly as regards its impact on public order and public security.

3. Under agreements for the mutual recognition of national documents, two or more Member States may provide for arrangements more flexible than those prescribed in this Article for movement with firearms within their territories.

▼B

*Article 13*

1. Each Member State shall communicate all useful information at its disposal concerning definitive transfers of firearms to the Member State to the territory of which such a transfer has been effected.
2. All information that Member States receive by way of the procedures laid down in Article 11 for transfers of firearms and in Article 7 (2) and Article 8 (2) for the acquisition and possession of firearms by non-residents shall be communicated, not later than the time of the relevant transfers, to the Member States of destination and, where appropriate, not later than the time of transfer to the Member States of transit.

▼ M1

3. For the purposes of the efficient application of this Directive, Member States shall exchange information on a regular basis. To this end, the Commission shall set up, by 28 July 2009, a contact group for the exchange of information for the purposes of applying this Article. Member States shall inform each other and the Commission of the national authorities responsible for transmitting and receiving information and for complying with the obligations set out in Article 11(4).
4. The competent authorities of the Member States shall exchange information on the authorisation granted for the transfers of firearms to another Member State as well as information with regard to refusal to grant authorisation as defined in Article 7. Member States shall exchange such information through centralized computerized data-filing system of the European Union by [date].
5. The Commission shall be empowered to ensure the establishment and maintenance of a centralized computerized data-filing system of the European Union by [date] as well as to adopt delegated acts in accordance with Article 13a concerning the modalities of exchange of information on authorisations granted and on refusals.

**LT:** *We would like to propose clearly identify the obligation to establish EU centralized data base and set up the date for this obligation.*

### *Article 13a*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Article 13 shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Directive.
3. The delegation of power referred to in Article 13 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 13 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

### *Article 13b*

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>(2)</sup>.

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<sup>2</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p.13)



~~1. Where reference is made to this paragraph, Articles 5 and 7 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(1)</sup> shall apply, having regard to the provisions of Article 8 thereof.~~

~~2. The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.~~

~~6. of Regulation (EU) No 182/2011 shall apply.~~

▼B

#### *Article 14*

Member States shall adopt all relevant provisions prohibiting entry into their territory:

- of a firearm except in the cases defined in Articles 11 and 12 and provided the conditions laid down therein are met,
- of a weapon other than a firearm provided that the national provisions of the Member State in question so permit.

### **CHAPTER 4 Final provisions**

#### *Article 15*

1. Member States shall intensify controls on the possession of weapons at external Community frontiers. They shall in particular ensure that travellers from third countries who intend to proceed to another Member State comply with Article 12.

2. This Directive shall not preclude the carrying out of controls by Member States or by the carrier at the time of boarding of a means of transport.

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

3. Member States shall inform the Commission of the manner in which the controls referred to in paragraphs 1 and 2 are carried out. The Commission shall collate this information and make it available to all Member States.

4. Member States shall notify the Commission of their national provisions, including changes relating to the acquisition and possession of weapons, where the national law is more stringent than the minimum standard they are required to adopt. The Commission shall pass on such information to the other Member States.

▼ M1

*Article 16*

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

*Article 17*

The Commission shall, ~~by 28 July 2015,~~ submit every five years a report to the European Parliament and the Council on the application of this Directive, ~~on the situation resulting from the application of this Directive,~~ accompanied, if appropriate, by proposals in particular as regards the categories of firearms of Annex I and the issues related to new technologies such as 3D printing. The first report shall be submitted two years after the entry into force of this Directive.

The Commission shall, by [date], establish the necessary elements of a system for the exchange of information contained in the computerised data-filing systems referred to in Article 4(4) between the Member States. The Commission's assessment shall be accompanied, if appropriate, by a legislative proposal taking into account existing instruments regarding exchange of information.

**LT:** *We would like to propose clearly identify the obligation to establish EU centralized data base and set up the date for this obligation.*

~~The Commission shall, by 28 July 2012, carry out research and submit a report to the European Parliament and the Council on the possible advantages and disadvantages of a reduction to two categories of firearms (prohibited or authorised) with a view to the better functioning of the internal market for the products in question by means of possible simplification.~~

~~The Commission shall, by 28 July 2010, submit a report to the European Parliament and the Council presenting the conclusions of a study of the issue of the placing on the market of replica firearms in order to determine whether the inclusion of such products within the scope of this Directive is possible and desirable.~~

#### *Article 18*

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive in good time so that the measures provided for by this Directive may be put into effect not later than 1 January 1993. They shall forthwith inform the Commission and the other Member States of the measures taken.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

#### *Article 19*

This Directive is addressed to the Member States.

▼B

*ANNEX I*

I. For the purposes of this Directive, 'weapon' means:

▼ M1

– any firearm as defined in Article 1 of the Directive,

▼ B

– weapons other than firearms as defined in national legislation.

II. For the purposes of this Directive, 'firearm' means:

A. Any object which falls into one of the following categories, unless it meets the definition but is excluded for one of the reasons listed in section III.

*Category A — Prohibited firearms*

1. Explosive military missiles and launchers.
2. Automatic firearms.
3. Firearms disguised as other objects.
4. Ammunition with penetrating, explosive or incendiary projectiles, and the projectiles for such ammunition.
5. Pistol and revolver ammunition with expanding projectiles and the projectiles f or such ammunition, except in the case of weapons for hunting or for target shooting, for persons entitled to use them.
6. Automatic firearms which have been converted into semi-automatic firearms;

7. Semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms:

**LT:** *We can not accept the proposal to prohibit semi-automatic firearms. The implementation of such a provision could increase the number of illegal weapons and would require resources from the Member State. Such firearms are registered in Lithuania for individuals whose reputation and health are verified before issuing the permit to purchase and possess weapons (reviewed every 5 years). Moreover, the electronic data base of firearms' holders and Register of criminal and administrative law offences, the National register of health services and other national registers are interlinked. Therefore the police receives notifications (alarm messages) related to reputation or diseases of individual during all period of 5 years and takes weapons if it is needed. We would like to propose to leave semi-automatic firearms in Category B and to check every person instead of prohibition of semi-automatic firearms. This measure is effective, because it is a person who is responsible for pulling the trigger. Not a single gun can shoot by itself. I would like to emphasize the advantage of this proposal. We will have the possibility to trace the owners of these weapons, but also ensure that number of illegal weapons will not increase.*

8. Firearms under points 1 to 7 after having being deactivated.

**LT:** *We can not accept the proposal to prohibit deactivated firearms of Category A. The Commission has already approved very strict EU requirements for deactivated weapons. We think it is enough to assure, that they never be reactivated.*

**Category B — Firearms subject to authorization**

1. Semi-automatic or repeating short firearms.
2. Single-shot short firearms with centre-fire percussion.
3. Single-shot short firearms with rimfire percussion whose overall length is less than 28 cm.
4. Semi-automatic long firearms whose magazine and chamber can together hold more than three rounds.

5. Semi-automatic long firearms whose magazine and chamber cannot together hold more than three rounds, where the loading device is removable or where it is not certain that the weapon cannot be converted, with ordinary tools, into a weapon whose magazine and chamber can together hold more than three rounds.
6. Repeating and semi-automatic long firearms with smooth-bore barrels not exceeding 60 cm in length.
- ~~7. Semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms.~~

*Category C — Firearms subject to declaration*

1. Repeating long firearms other than those listed in category B, point 6.
2. Long firearms with single-shot rifled barrels.
3. Semi-automatic long firearms other than those in category B, points 4 to 7.
4. Single-shot short firearms with rimfire percussion whose overall length is not less than 28 cm.
5. Alarm and signal weapons, salute and acoustic weapons as well as replicas;
6. Firearms under category B and points 1 to 5 of category C, after having been deactivated.
7. Small power (kinetic energy does not exceeds 7,5 Joules) traumatic hand guns.

**LT:** *Handguns of small power (such as revolvers of caliber 4 mm or 6 mm Flobert type; pistols (revolvers) that are manufactured to shoot rubber bullets) can be easily converted to the real ones. It is enough to convert cartridges for Flobert type hand guns or to use rubber or lead bullets with 9 mm Knall cartridges for traumatic revolvers.*

## 8. Replicas of antique firearms.

**LT:** *Replicas of antique firearms initially are made as lethal firearms. For example cylinder loading revolvers (designed from 1858 until 1863) are normal six-shot revolvers, which can be used with live fire ammunition. Only one difference from the real one - there is no possibility to use cartridge cases. So it takes more time to load the revolver.*

## 9.

### ***Category D—Other firearms***

**LT:** *It is likely, that most Member States register single-shot long shotguns. Therefore we propose to move single-shot long shotguns from Category D to Category C and delete the Category D from the Directive.*

Single-shot long firearms with smooth-bore barrels.

B. Any essential component of such firearms:

~~The breach-closing mechanism, the chamber and the barrel of a firearm which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted.~~

▼ **M1** III. For the purposes of this Annex objects which correspond to the definition of a firearm' shall not be included in that definition if they:

~~(a) have been rendered permanently unfit for use by deactivation, ensuring that all essential parts of the firearm have been rendered permanently inoperable and incapable of removal, replacement or a modification that would permit the firearm to be reactivated in any way;~~

▼ **B**

(b) are designed for ~~alarm, signalling,~~ life-saving, animal slaughter or harpoon fishing or for industrial or technical purposes provided that they can be used for the stated purpose only;

(c) are regarded as antique weapons or reproductions of such where these have not been included in the previous categories and are subject to national laws.

## ▼ M1

~~Member States shall make arrangements for the deactivation measures referred to in point (a) to be verified by a competent authority in order to ensure that the modifications made to a firearm render it irreversibly inoperable. Member States shall, in the context of this verification, provide for the issuance of a certificate or record attesting to the deactivation of the firearm or the apposition of a clearly visible mark to that effect on the firearm. The Commission shall, acting in accordance with the procedure referred to in Article 13a(2) of the Directive, issue common guidelines on deactivation standards and techniques to ensure that deactivated firearms are rendered irreversibly inoperable.~~

Pending coordination throughout the Community, Member States may apply their national laws to the firearms listed in this Section.

## ▼ B

IV. For the purposes of this Annex:

- (a) 'short firearm' means a firearm with a barrel not exceeding 30 centimetres or whose overall length does not exceed 60 centimetres;
- (b) 'long firearm' means any firearm other than a short firearm;
- (c) 'automatic firearm' means a firearm which reloads automatically each time a round is fired and can fire more than one round with one pull on the trigger;
- (d) 'semi-automatic firearm' means a firearm which reloads automatically each time a round is fired and can fire only one round with one pull on the trigger;
- (e) 'repeating firearm' means a firearm which after a round has been fired is designed to be reloaded from a magazine or cylinder by means of a manually-operated action;
- (f) 'single-shot firearm' means a firearm with no magazine which is loaded before each shot by the manual insertion of a round into the chamber or a loading recess at the breech of the barrel;
- (g) 'ammunition with penetrating projectiles' means ammunition for military use where the projectile is jacketed and has a penetrating hard core;



- (h) 'ammunition with explosive projectiles' means ammunition for military use where the projectile contains a charge which explodes on impact;
- (i) 'ammunition with incendiary projectiles' means ammunition for military use where the projectile contains a chemical mixture which bursts into flame on contact with the air or on impact.

*ANNEX II*

EUROPEAN FIREARMS PASS

The pass must include the following sections:

- (a) identity of the holder;
- (b) identification of the weapon or firearm, including a reference to the category within the meaning of the Directive;
- (c) period of validity of the pass;
- (d) section for use by the Member State issuing the pass (type and references of authorizations, etc.);
- (e) section for entries by other Member States (authorizations to enter their territory, etc.);
- (f) the statements:

'The right to travel to another Member State with one or more of the firearms in categories B, C or D mentioned in this pass shall be subject to one or more prior corresponding authorizations from the Member State visited. This or these authorizations may be recorded on the pass.

The prior authorization referred to above is not in principle necessary in order to travel with a firearm in categories C or D with a view to engaging in hunting or with a firearm in categories B, C or D for the purpose of taking part in target shooting, on condition that the traveller is in possession of the firearms pass and can establish the reason for the journey. '

Where a Member State has informed the other Member States, in accordance with Article 8 (3), that the possession of certain firearms in categories B, C or D is prohibited or subject to authorization, one of the following statements shall be added:

'A journey to... (State(s) concerned) with the firearm ... (identification) shall be prohibited.'

'A journey to. (State(s) concerned) with the firearm ... (identification) shall be subject to authorization.'

#### Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive [~~36~~ months after publication to the OJ]. They shall forthwith communicate to the Commission the text of those provisions.

**LT:** *The period of 3 months is too short for transposing provisions of Directive into the national Law.*

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Member States shall apply provisions for alarm, signal, salute, acoustic and deactivated weapons from [date].

**LT:** *It is very important to set up the transition period for people to declare or to register firearms, which will be included into the Category C.*

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

## **NORWAY**

Norway supports the initiative from the European Commission to strengthen the work against illicit firearms and consider it essential to have provisions that effectively hinders the unlawful possession and use of firearms. We consider it important that the strengthening of the firearms directive addresses those issues that pose a serious threat to the public security and therefor can be considered proportional to the more than 500 000 Norwegian hunters, sport shooters and collectors which can be affected by the proposed changes in the firearms directive.

Given the short period for revision, only a cursory examination of the draft has been possible so far. The following remarks therefore make no claim to be exhaustive.

The proposed prohibitions in Article 6 and Annex I, does not distinct between semi-automatic rifles, shotguns and pistols. The security risk of these firearms categories varies, and the article should more clearly define which firearm that poses the greatest threat to public security. The wording “resemble” in Annex I should also be clarified. The prohibition should not be related to the appearance but to the functioning of a firearm.

Some of the proposal will impose great administrative burdens for the Member States. Especially the proposals to establish a register for deactivated firearms, to provide for standard medical tests, and to restrict the limit for an authorization to five years. It should be further explored if those proposals are proportionate and effective to prevent unlawful possession and use of firearms.

# PORTUGAL

## CHAPTER 1 Scope

### Article 1

#### ▼ M1

2. For the purposes of this Directive, 'firearm' shall mean any portable barrelled weapon that expels, is designed to expel or may be converted to expel a shot, bullet or projectile by the action of a combustible propellant, unless it is excluded for one of the reasons listed in Part III of Annex I. Firearms are classified in part II of Annex I.

For the purposes of this Directive, an object shall be considered as capable of being converted to expel a shot, bullet or projectile by the action of a combustible propellant if:

- it has the appearance of a firearm, and
- as a result of its construction or the material from which it is made, it can be so converted.

1a. For the purposes of this Directive, 'part' shall mean any element or replacement element specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound caused by firing a firearm.

1b. For the purposes of this Directive, 'essential component' shall mean the barrel, frame, receiver, slide or cylinder, bolt or breech block and any device designed or adapted to diminish the sound caused by firing a firearm which, being separate objects, breach-closing mechanism, the chamber and the barrel of a firearm which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted.

1c. For the purposes of this Directive, 'ammunition' shall mean the complete round or the components thereof, including cartridge cases, primers, propellant powder, bullets or projectiles, that are used in a firearm, provided that those components are themselves subject to authorisation in the relevant Member State.

1d. For the purposes of this Directive, 'tracing' shall mean the systematic tracking of firearms and, where possible, their parts and ammunition from manufacturer to purchaser for the purpose of assisting the competent authorities of Member States in detecting, investigating and analysing illicit manufacturing and illicit trafficking.

1e. For the purposes of this Directive, 'broker' shall mean any natural or legal person, other than a dealer, whose trade or business consists wholly or partly in the buying, selling or arranging the transfer of weapons within a Member State, from one Member State to another Member State or exporting to a third country fully assembled firearms, their parts and ammunition;

1f. For the purpose of this Directive, 'alarm and signal weapons' shall mean portable devices with a cartridge holder having a gas exit to the front, aside or on the top, which are specifically designed and constructed for the purpose of raising alarm or sending a signal and which are only designed to fire blanks, irritants, other active substances or pyrotechnic ammunitions.

1g. For the purpose of this Directive, 'salute and acoustic weapons' shall mean firearms specifically converted for the sole use of firing blanks, for use in theatre performances, photographic sessions, movies and television recordings.

1h. for the purposes of this Directive, 'replica firearms' shall mean objects that have the physical appearance of a firearm Category A,B,C and D, but are manufactured in such a way that they cannot be converted to firing a shot or expelling a bullet or projectile by the action of a combustible propellant.

1i. For the purposes of this Directive, 'deactivated firearms' shall mean firearms that have been modified with the purpose of rendering them permanently unfit for use by deactivation, ensuring that all essential parts of the firearm have been rendered permanently inoperable and incapable of removal, replacement or a modification that would permit the firearm to be reactivated in any way.'

2. For the purposes of this Directive, 'dealer' shall mean any natural or legal person whose trade or business consists wholly or partly in any of the following:

(i) the manufacture, trade, exchange, hiring out, repair or conversion of firearms;

(ii) the manufacture, trade, exchange, hiring out, repair or conversion of parts of firearms;

(iii) the manufacture, trade, exchange or conversion of ammunition, ~~parts and ammunition.~~

2a. For the purposes of this Directive, 'illicit manufacturing' shall mean the manufacturing or assembly of firearms, their parts and ammunition:

(i) from any essential component of such firearms illicitly trafficked;

(ii) without an authorisation issued in accordance with Article 4 by a competent authority of the Member State where the manufacture or assembly takes place; or

(iii) without marking the assembled firearms at the time of manufacture in accordance with Article 4(1).

▼ M1

2b. For the purposes of this Directive, 'illicit trafficking' shall mean the acquisition, sale, delivery, movement or transfer of firearms, their parts or ammunition from or across the territory of one Member State to that of another Member State if any one of the Member States concerned does not authorise it in accordance with the terms of this Directive or if the assembled firearms are not marked in accordance with Article 4(1).

▼B

3. For the purposes of this Directive, a person shall be deemed to be a resident of the country indicated by the address appearing on a document establishing his place of residence, such as a passport or an identity card, which, on a check on possession or on acquisition, is submitted to the authorities of a Member State or to a dealer.

▼ M1

5. A 'European firearms pass' shall be issued on request by the authorities of a Member State to a person lawfully entering into possession of and using a firearm. It shall be valid for a maximum period of five years, which may be extended, and shall contain the information set out in Annex II. It shall be non-transferable and shall record the firearm or firearms possessed and used by the holder of the pass. It must always be in the possession of the person using the firearm and any change in the possession or characteristics of the firearm, as well as the loss or theft thereof, shall be indicated on the pass.

#### Article 2

1. This Directive is without prejudice to the application of national provisions concerning the carrying of weapons, hunting or target shooting.

2. This Directive shall not apply to the acquisition or possession of weapons and ammunition, in accordance with national law, by the armed forces, the police, the public authorities, ~~or by collectors and bodies concerned with the cultural and historical aspects of weapons and recognized as such by the Member State in whose territory they are established.~~ Nor shall it apply to commercial transfers of weapons and ammunition of war.

**PT:** *In PT we have specific legislation for the acquisition, possession, use and possession of firearms and ammunition and accessories aimed at cultural history collecting. They need an authorization to possess and authorization to acquire and training.*

#### Article 3

Member States may adopt in their legislation provisions which are more stringent than those provided for in this Directive, subject to the rights conferred on residents of the Member States by Article 12 (2).



## CHAPTER 2

### Harmonization of legislation concerning firearms

#### ▼ M1

#### Article 4

1. ~~Member States shall ensure either that any firearm or part placed on the market has been marked and registered in compliance with this Directive, or that it has been deactivated.~~

1.

2. ~~For the purpose of identifying and tracing each assembled firearm, Member States shall, at the time of manufacture of each firearm or at the time of transfer, or import to the Union, either:~~

**PT:** *Imported firearms are only marked if not complied with the requirements of Directive.*

*Imported arms and EU firearms as standard are marked with the serial number , caliber and the manufacturer's mark. Imported sometimes have no marking at all the essential parts and in these cases shall be marked in Portugal **all the essential parts** .*

*In Portugal the marking is requested to the Public Security Police (PSP) is the national competent authority on firearms for civil use, and through its Firearms and Explosives Department, and the guidelines set out in national legislation defined by PSP.*

*For identification of the marking firearms in national territory or other countries the PSP is affixed by a mark **on all essential parts** , marking in Portuguese language , the letters PT (Portugal) and symbol (coat) of the Public Security Police ( PSP).*

*For a control of marking firearms in Portugal is only the Public Security Police **the entity that proceed the marking on firearms.***

~~3.2. (a)~~ require a unique marking, including the name of the manufacturer, the country or place of manufacture, the serial number and the year of manufacture, ~~(if not part of the serial number)~~. This shall be without prejudice to the affixing of the manufacturer's trademark.

▼ M1

~~For these purposes, the Member States may choose to apply the provisions of the Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms; or~~

~~(b) maintain any alternative unique user friendly marking with a number or alphanumeric code, permitting ready identification by all States of the country of manufacture.~~

The marking shall be affixed to ~~an essential component of the firearm, the destruction of which would render the firearm unusable~~ the receiver / frame and slide of the firearm on visible local.

Member States shall ensure that each elementary package of complete ammunition is marked so as to provide the name of the manufacturer, the identification batch (lot) number, the calibre and the type of ammunition. ~~For these purposes Member States may choose to apply the provisions of the Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms.~~

Furthermore, Member States shall ensure, at the time of transfer of a firearm from government stocks to permanent civilian use, the ~~appropriate~~ unique marking permitting identification ~~by States of the transferring country~~ government.

4.3. Member States shall make the pursuit of the activity of dealer or broker within their territory conditional upon authorisation on the basis of at least a check of the private and professional integrity and of the abilities of the dealer or broker. In the case of a legal person, the check shall be on the person who directs the undertaking.

**PT:** *Must have a training course requested to competent authority to obtain certification before requesting authorization*

~~5.4.~~ Member States shall, by 31 December 2014, ensure the establishment and maintenance of a computerised data-filing system, either a centralised system or a decentralised system which guarantees to authorised authorities access to the data-filing systems in which each firearm subject to this Directive shall be recorded. This filing system shall record ~~and maintain for not less than 20 years~~ each firearm's type, make, model, calibre and serial number, as well as the names and addresses of the supplier and the person acquiring or possessing the firearm. The record of firearms, including deactivated firearms, shall be maintained until destruction of the firearm has been certified by the competent authorities.

Throughout their period of activity, dealers and brokers shall be required to maintain a register in which all firearms and ammunitions subject to this Directive and which are received or disposed of by them shall be recorded, together with such particulars as enable the firearm to be identified and traced, in particular the name of the manufacturer, type, make, model, calibre and serial number thereof and the names and addresses of the persons, dealears or brokers supplying and acquiring, respective permit or authorization number when required.

**PT:** *including manufacturers*

Upon the cessation of his activities, the dealer or broker shall deliver the register to the national authority responsible for the filing system provided for in the first subparagraph~~4~~.

Each Member State shall ensure that the registries of the dealers and brokers established in their territory are connected to the computerized data-filing system of firearms.

~~6.5.~~ Member States shall ensure that all firearms may be linked to their owner at any moment. However, as regards firearms classified in category D, Member States shall, as from 28 July 2010, put into place appropriate tracing measures, including, as from 31 December 2014, measures enabling linking at any moment to the owner of firearms placed on the market after 28 July 2010.

## Article 4a

Without prejudice to Article 3, Member States shall allow the acquisition and possession of firearms only by persons who have been granted a licence or, with respect to categories C or D, who are specifically permitted to acquire and possess such firearms in accordance with national law.

### ▼ M1

## Article 4b

1. Member States shall ~~consider~~ establishing a system for the regulation of the activities of brokers and dealers. Such a system might include one or more of the following measures ~~such as~~:

~~(a) requiring the registration of brokers and dealers operating within their territory;~~

~~(b) requiring the licensing or authorisation of the activities of brokers and dealers.~~

2. The system referred to in paragraph 1 shall include at least a check of the private and professional integrity and of the abilities of the dealer or broker. In the case of a legal person, the check shall be on the legal person and on the person who directs the undertaking.

## Article 5

1. Without prejudice to Article 3, Member States shall ~~permit~~ authorize the acquisition and possession of firearms only by persons who have good cause and who:

(a) are at least 18 years of age, except in relation to the ~~acquisition, other than through purchase, and~~ possession of firearms for hunting and target shooting, provided that in that case persons of less than 18 years of age have parental permission, or are under parental guidance or the guidance of an adult with a valid firearms or hunting licence, or are within a licenced or otherwise approved training centre;

(b) \_\_\_ are not likely to be a danger to themselves, to public order or to public safety. Having been convicted of a violent intentional crime shall be considered as indicative of such danger.

(b)(c) Considerer limits firearms and proper conditions in is keeping and verified by the competent authority.

**PT:** *ensure limits in the acquisition of different Categories of firearms and respective proper conditions in is keeping in accordance with the quantities*

2. Member States shall provide for standard medical tests for issuing or renewing authorization as referred to in paragraph 1 and shall ~~may~~ withdraw authorisations for possession of a firearm if any of the conditions on the basis of which it was granted are no longer satisfied is no longer met.

Member States may not prohibit persons resident within their territory from possessing a weapon acquired in another Member State unless they prohibit the acquisition of the same weapon within their own territory.

▼B

## Article 6

Member States shall take all appropriate steps to prohibit the acquisition and the possession of the firearms and ammunition classified in category A and to destroy those firearms and ammunition held in violation of this provision and seized. ~~In special cases, the competent authorities may grant authorizations for such firearms and ammunition where this is not contrary to public security or public order.~~

Member States may authorise persons and bodies concerned with the cultural and historical aspects of weapons and recognised as such by the Member State in whose territory they are established to keep in their possession firearms classified in category A acquired before [the date of entry into force of this Directive] provided they have been deactivated in accordance with the provisions that implement Article 10(b).

The acquisition and selling of firearms and their parts and ammunition concerning categories A, B and C by means of distance communication, as defined in Article 2 of Directive 97/7/EC of the European Parliament and of the Council (<sup>5</sup>), shall be authorised only with respect to dealers and brokers and shall be subject to the strict control of the Member States.

~~M1~~

~~Member States shall ensure that, except with respect to dealers, the acquisition of firearms and their parts and ammunition by means of distance communication, as defined in Article 2 of Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts (<sup>1</sup>), shall, where authorised, be strictly controlled.~~

#### Article 7

1. No one may acquire a firearm classified in category B within the territory of a Member State unless that Member State has so authorized him.

No such authorization may be given to a resident of another Member State without the latter's prior agreement.

(<sup>1</sup>) OJ L 144, 4.6.1997, p. 19. Directive as last amended by Directive 2005/29/EC (OJ L 149, 11.6.2005, p. 22).

▼B

2. No one may be in possession of a firearm classified in category B within the territory of a Member State unless that Member State has so authorized him. If he is a resident of another Member State, that other Member State shall be informed accordingly.

3. An authorization to acquire and an authorization to possess a firearm classified in category B may take the form of a single administrative decision.

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(<sup>5</sup>) Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts (OJ L 144, 4.6.1997, o.19)

4. Member States may consider granting persons who satisfy the conditions for the granting of an authorisation for a firearm a multi-annual licence for the acquisition and possession of all firearms subject to authorisation, without prejudice to:

(a) the obligation to notify the competent authorities of transfers;

(b) the periodic verification that those persons continue to satisfy the conditions; and

(c) the maximum limits for possession laid down in national law.

The maximum limits shall not exceed five years. The authorisation may be renewed if the conditions on the basis of which it was granted are still fulfilled.

5. Member States shall adopt rules to ensure that persons holding authorisations for firearms of category B in force under national law as at 28 July 2008 do not need to apply for a licence or permit regarding firearms they hold in categories C or D due to the entry into force of Directive 2008/51/EC of the European Parliament and of the Council of 21 May 2008 <sup>(1)</sup>. However, any subsequent transfer of firearms of categories C or D shall be subject to the transferee obtaining or having a licence or being specifically permitted to possess those firearms in accordance with national law.

#### Article 8

1. No one may be in possession of a firearm classified in category C unless he has declared it to the authorities of the Member State in which that firearm is held.

The Member States shall provide for the compulsory declaration of all firearms classified in category C at present held within their territories but not previously declared within one year of the entry into force of the national provisions transposing this Directive.

2. Every seller, dealer or private person shall inform the authorities of the Member State in which it takes place of every transfer or handing over of a firearm classified in category C, giving the particulars by which the firearm and the person acquiring it may be identified. If the person acquiring such a firearm is a resident of another Member State, that other Member State shall be informed of the acquisition by the Member State in which it took place and by the person acquiring the firearm.

3. If a Member State prohibits or makes subject to authorization the acquisition and possession within its territory of a firearm classified in category B, C or D, it shall so inform the other Member States, which shall expressly include a statement to that effect on any European firearms pass they issue for such a firearm, pursuant to Article 12 (2).

#### Article 9

1. The handing over of a firearm classified in category A, B or C to a person who is not resident in the Member State in question shall be permitted, subject to compliance with the obligations laid down in Articles 6, 7 and 8:

<sup>(1)</sup> OJ L 179, 8.7.2008, p. 5.

#### ▼B

- where the person acquiring it has been authorized in accordance with Article 11 himself to effect a transfer to his country of residence,
  - where the person acquiring it submits a written declaration testifying to and justifying his intention to be in possession of the firearm in the Member State of acquisition, provided that he fulfils the legal conditions for possession in that Member State.
2. Member States may authorize the temporary handing over of firearms in accordance with procedures which they shall lay down.

#### Article 10

The arrangements for the acquisition and possession of ammunition shall be the same as those for the possession of the firearms for which the ammunition is intended.



### Article 10a

Member States shall take measures to ensure that alarm and signal weapons as well as salute and acoustic weapons cannot be converted into firearms.

The Commission shall adopt technical specifications for alarm and signal weapons as well as for salute and acoustic weapons to ensure they cannot be converted into firearms.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13b(2).

### Article 10b

Member States shall make arrangements for the deactivation of firearms to be verified by a competent authority in order to ensure that the modifications made to a firearm render it irreversibly inoperable. Member States shall, in the context of this verification, provide for the issuance of a certificate or record attesting to the deactivation of the firearm or the apposition of a clearly visible mark to that effect on the firearm.

The Commission shall adopt deactivation standards and techniques to ensure that deactivate firearms are rendered irreversibly inoperable. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13b(2).

## CHAPTER 3

### **Formalities for the movement of weapons within the Community**

#### Article 11

1. Firearms may, without prejudice to Article 12, be transferred from one Member State to another only in accordance with the procedure laid down in the following paragraphs. These provisions shall also apply to transfers of firearms following a mail order sale.

2. Where a firearm is to be transferred to another Member State, the person concerned shall, before it is taken there, supply the following particulars to the Member State in which such firearm is situated:

- the names and addresses of the person selling or disposing of the firearm and of the person purchasing or acquiring it or, where appropriate, of the owner,
- the address to which the firearm is to be consigned or transported,
- the number of firearms to be consigned or transported,
- the particulars enabling the firearm to be identified and also an indication that the firearm has undergone a check in accordance with the Convention of 1 July 1969 on the Reciprocal Recognition of Proofmarks on Small Arms,
- the means of transfer,
- the date of departure and the estimated date of arrival.

The information referred to in the last two indents need not be supplied where the transfer takes place between dealers.

The Member State shall examine the conditions under which the transfer is to be carried out, in particular with regard to security.

Where the Member State authorizes such transfer, it shall issue a licence incorporating all the particulars referred to in the first subparagraph. Such licence shall accompany the firearm until it reaches its destination; it shall be produced whenever so required by the authorities of the Member States.

3. In the case of transfer of the firearms, other than weapons of war, excluded from the scope of this Directive pursuant to Article 2 (2), each Member State may grant dealers the right to effect transfers of firearms from its territory to a dealer established in another Member State without the prior authorization referred to in paragraph 2. To that end it shall issue an authorization valid for no more than three years, which may at any time be suspended or cancelled by reasoned decision.

▼B

A document referring to that authorization must accompany the firearm until it reaches its destination; it must be produced whenever so required by the authorities of the Member States.

▼ M1

Prior to the date of transfer, the dealer shall communicate to the authorities of the Member State from which the transfer is to be effected all the particulars listed in the first subparagraph of paragraph 2. Those authorities shall carry out inspections, where appropriate on the spot, to verify the correspondence between the information communicated by the dealer and the actual characteristics of the transfer. The information shall be communicated by the dealer within a period allowing sufficient time.

▼B

4. Each Member State shall supply the other Member States with a list of firearms the transfer of which to its territory may be authorized ◀ without its prior consent.

Such lists of firearms shall be communicated to dealers who have obtained approval for transferring firearms without prior authorization under the procedure laid down in paragraph 3.

## Article 12

1. If the procedure provided for in Article 11 is not employed, the possession of a firearm during a journey through two or more Member States shall not be permitted unless the person concerned has obtained the authorization of each of those Member States.

Member States may grant such authorization for one or more journeys for a maximum period of one year, subject to renewal. Such authorizations shall be entered on the European firearms pass, which the traveller must produce whenever so required by the authorities of the Member States.

2. ► **M1** Notwithstanding paragraph 1, hunters, in respect of categories C and D, and marksmen, in respect of categories B, C and D, may, without prior authorisation, be in possession of one or more firearms during a journey through two or more Member States with a view to engaging in their activities, provided that they are in possession of a European firearms pass listing such firearm or firearms and provided that they are able to substantiate the reasons for their journey, in particular by producing an invitation or other proof of their hunting or target shooting activities in the Member State of destination.

Member States may not make acceptance of a European firearms pass conditional upon the payment of any fee or charge. ◀

However, this derogation shall not apply to journeys to a Member State which prohibits the acquisition and possession of the firearm in question or which, pursuant to Article 8 (3), makes it subject to authorization; in that case, an express statement to that effect shall be entered on the European firearms pass.

In the context of the report referred to in Article 17, the Commission in consultation with the Member States, will also consider the effects of applying the second subparagraph, particularly as regards its impact on public order and public security.

3. Under agreements for the mutual recognition of national documents, two or more Member States may provide for arrangements more flexible than those prescribed in this Article for movement with firearms within their territories.

▼B

### Article 13

1. Each Member State shall communicate all useful information at its disposal concerning definitive transfers of firearms to the Member State to the territory of which such a transfer has been effected.

2. All information that Member States receive by way of the procedures laid down in Article 11 for transfers of firearms and in Article 7 (2) and Article 8 (2) for the acquisition and possession of firearms by non-residents shall be communicated, not later than the time of the relevant transfers, to the Member States of destination and, where appropriate, not later than the time of transfer to the Member States of transit.

3. For the purposes of the efficient application of this Directive, Member States shall exchange information on a regular basis. To this end, the Commission shall set up, by 28 July 2009, a contact group for the exchange of information for the purposes of applying this Article. Member States shall inform each other and the Commission of the national authorities responsible for transmitting and receiving information and for complying with the obligations set out in Article 11(4).

4. The competent authorities of the Member States shall exchange information on the authorisation granted for the transfers of firearms to another Member State as well as information with regard to refusal to grant authorisation as defined in Article 7.

3.5. The Commission shall be empowered to adopt delegated acts in accordance with Article 13a concerning the modalities of exchange of information on authorisations granted and on refusals.

#### Article 13a

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The delegation of power referred to in Article 13 shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Directive.

3. The delegation of power referred to in Article 13 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 13 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

#### *Article 13b*

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>(6)</sup>.

~~1.—Where reference is made to this paragraph, Articles 5 and 7 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (<sup>+</sup>) shall apply, having regard to the provisions of Article 8 thereof.~~

~~2. The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.~~

6. of Regulation (EU) No 182/2011 shall apply.

▼B

#### Article 14

Member States shall adopt all relevant provisions prohibiting entry into their territory:

- of a firearm except in the cases defined in Articles 11 and 12 and provided the conditions laid down therein are met,
- of a weapon other than a firearm provided that the national provisions of the Member State in question so permit.

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<sup>6</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p.13)

## CHAPTER 4 Final provisions

### Article 15

1. Member States shall intensify controls on the possession of weapons at external Community frontiers. They shall in particular ensure that travellers from third countries who intend to proceed to another Member State comply with Article 12.

2. This Directive shall not preclude the carrying out of controls by Member States or by the carrier at the time of boarding of a means of transport.

(<sup>1</sup>) OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

3. Member States shall inform the Commission of the manner in which the controls referred to in paragraphs 1 and 2 are carried out. The Commission shall collate this information and make it available to all Member States.

4. Member States shall notify the Commission of their national provisions, including changes relating to the acquisition and possession of weapons, where the national law is more stringent than the minimum standard they are required to adopt. The Commission shall pass on such information to the other Member States.

▼ M1

### Article 16

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

### Article 17

The Commission shall, ~~by 28 July 2015,~~ submit every five years a report to the European Parliament and the Council on the application of this Directive, ~~on the situation resulting from the application of this Directive,~~ accompanied, if appropriate, by proposals in particular as regards the categories of firearms of Annex I and the issues related to new technologies

such as 3D printing. The first report shall be submitted two years after the entry into force of this Directive.

The Commission shall, by [date], assess the necessary elements of a system for the exchange of information contained in the computerised data-filing systems referred to in Article 4(4) between the Member States. The Commission's assessment shall be accompanied, if appropriate, by a legislative proposal taking into account existing instruments regarding exchange of information.

~~The Commission shall, by 28 July 2012, carry out research and submit a report to the European Parliament and the Council on the possible advantages and disadvantages of a reduction to two categories of firearms (prohibited or authorised) with a view to the better functioning of the internal market for the products in question by means of possible simplification.~~

~~The Commission shall, by 28 July 2010, submit a report to the European Parliament and the Council presenting the conclusions of a study of the issue of the placing on the market of replica firearms in order to determine whether the inclusion of such products within the scope of this Directive is possible and desirable.~~

#### Article 18

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive in good time so that the measures provided for by this Directive may be put into effect not later than 1 January 1993. They shall forthwith inform the Commission and the other Member States of the measures taken.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

#### Article 19

This Directive is addressed to the Member States.



▼B

## ANNEX I

I. For the purposes of this Directive, 'weapon' means:

▼ M1

– any firearm as defined in Article 1 of the Directive,

▼ B

– weapons other than firearms as defined in national legislation.

II. For the purposes of this Directive, 'firearm' means:

A. Any object which falls into one of the following categories, unless it meets the definition but is excluded for one of the reasons listed in section III.

### *Category A* — Prohibited firearms

1. Explosive military missiles and launchers.
2. Automatic firearms.
3. Firearms disguised as other objects.
4. Ammunition with penetrating, explosive or incendiary projectiles, and the projectiles for such ammunition.
5. Pistol and revolver ammunition with expanding projectiles and the projectiles for such ammunition, except in the case of weapons for hunting or for target shooting, for persons entitled to use them.
6. Automatic firearms which have been converted into semi-automatic firearms;

7. Semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms;

~~5.8. Firearms under points 1 to 7 after having being deactivated.~~

**Category B** — Firearms subject to authorization

1. Semi-automatic or repeating short firearms.
2. Single-shot short firearms with centre-fire percussion.
3. Single-shot short firearms with rimfire percussion whose overall length is less than 28 cm.
4. Semi-automatic long firearms whose magazine and chamber can together hold more than three rounds.
5. Semi-automatic long firearms whose magazine and chamber cannot together hold more than three rounds, where the loading device is removable or where it is not certain that the weapon cannot be converted, with ordinary tools, into a weapon whose magazine and chamber can together hold more than three rounds.
6. Repeating and semi-automatic long firearms with smooth-bore barrels not exceeding 60 cm in length.
- ~~7. Semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms.~~

*Category C* — Firearms subject to declaration

1. Repeating long firearms other than those listed in category B, point 6.
2. Long firearms with single-shot rifled barrels.
3. Semi-automatic long firearms other than those in category B, points 4 to 7.
4. Single-shot short firearms with rimfire percussion whose overall length is not less than 28 cm.
5. Alarm and signal weapons, salute and acoustic weapons as well as replicas;
- 4.6. Firearms under category B and points 1 to 5 of category C, after having been deactivated.

*Category D* — Other firearms

Single-shot long firearms with smooth-bore barrels.

B. Any essential component of such firearms:

~~The breach-closing mechanism, the chamber and the barrel of a firearm which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted.~~

III. For the purposes of this Annex objects which correspond to the definition of

a 'firearm' shall not be included in that definition if they:

- (a) ~~have been rendered permanently unfit for use by deactivation, ensuring that all essential parts of the firearm have been rendered permanently inoperable and incapable of removal, replacement or a modification that would permit the firearm to be reactivated in any way;~~
- (b) are designed for ~~alarm, signalling,~~ life-saving, animal slaughter or harpoon fishing or for industrial or technical purposes provided that they can be used for the stated purpose only;

(c) are regarded as antique weapons or reproductions of such where these have not been included in the previous categories and are subject to national laws.

▼ M1

~~Member States shall make arrangements for the deactivation measures referred to in point (a) to be verified by a competent authority in order to ensure that the modifications made to a firearm render it irreversibly inoperable. Member States shall, in the context of this verification, provide for the issuance of a certificate or record attesting to the deactivation of the firearm or the apposition of a clearly visible mark to that effect on the firearm. The Commission shall, acting in accordance with the procedure referred to in Article 13a(2) of the Directive, issue common guidelines on deactivation standards and techniques to ensure that deactivated firearms are rendered irreversibly inoperable.~~

▼ B

Pending coordination throughout the Community, Member States may apply their national laws to the firearms listed in this Section.

#### IV. For the purposes of this Annex:

- (a) 'short firearm' means a firearm with a barrel not exceeding 30 centimetres or whose overall length does not exceed 60 centimetres;
- (b) 'long firearm' means any firearm other than a short firearm;
- (c) 'automatic firearm' means a firearm which reloads automatically each time a round is fired and can fire more than one round with one pull on the trigger;
- (d) 'semi-automatic firearm' means a firearm which reloads automatically each time a round is fired and can fire only one round with one pull on the trigger;
- (e) 'repeating firearm' means a firearm which after a round has been fired is designed to be reloaded from a magazine or cylinder by means of a manually-operated action;
- (f) 'single-shot firearm' means a firearm with no magazine which is loaded before each shot by the manual insertion of a round into the chamber or a loading recess at the breech of the barrel;
- (g) 'ammunition with penetrating projectiles' means ammunition for military use where the projectile is jacketed and has a penetrating hard core;

- ▼ M1 (h) 'ammunition with explosive projectiles' means ammunition for military use where the projectile contains a charge which explodes on impact;
- ▼ B (i) 'ammunition with incendiary projectiles' means ammunition for military use where the projectile contains a chemical mixture which bursts into flame on contact with the air or on impact.

## ANNEX II

### EUROPEAN FIREARMS PASS

The pass must include the following sections:

- (a) identity of the holder;
- (b) identification of the weapon or firearm, including a reference to the category within the meaning of the Directive;
- (c) period of validity of the pass;
- (d) section for use by the Member State issuing the pass (type and references of authorizations, etc.);
- (e) section for entries by other Member States (authorizations to enter their territory, etc.);
- (f) the statements:

'The right to travel to another Member State with one or more of the firearms in categories B, C or D mentioned in this pass shall be subject to one or more prior corresponding authorizations from the Member State visited. This or these authorizations may be recorded on the pass.

The prior authorization referred to above is not in principle necessary in order to travel with a firearm in categories C or D with a view to engaging in hunting or with a firearm in categories B, C or D for the purpose of taking part in target shooting, on condition that the traveller is in possession of the firearms pass and can establish the reason for the journey. '

Where a Member State has informed the other Member States, in accordance with Article 8 (3), that the possession of certain firearms in categories B, C or D is prohibited or subject to authorization, one of the following statements shall be added:

'A journey to... (State(s) concerned) with the firearm ... (identification) shall be prohibited.'

'A journey to. (State(s) concerned) with the firearm ... (identification) shall be subject to authorization.'

## **SLOVAKIA**

### **Written contribution by the Slovak republic on the Proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons**

The Commission`s proposals for a Directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons has as one of its objectives the general prohibition of possession of semi-automatic firearms, which have been converted to such and also other important restrictions. We do not think that such prohibition can solve the issue of civil population protection against the threat of using firearms similarly to some recent terrorist incidents.

In our opinion, the Commission`s proposal represents an overall ban of legal weapons in the hands of authorized legal possessors. It is well known that terrorist attacks are, as a rule, not committed using legal firearms. We are of the opinion, that in terrorist perpetrators use illegally acquired weapons (assault firearms or submachine guns) which were bought as such on the “black market” or are the result of improvised homemade conversion (mainly from blank firing guns).

In general terms, the envisaged prohibition would also outlaw the possession of semi-automatic firearms by sport shooters and and would also lead to destruction of museum pieces and firearms of considerable historical value. It is also necessary to take into account the important economic impact of these proposals on firearm producers and dealers, as well as issues of private property. We do not think that envisaged ban is a good solution to the currently existing situation and bears no relation to the core problem of the illegal “black market” with firearms, which is the main source of weapons used in crime including terrorism.



We think that the Commission's efforts should be focused primarily on a more effective suppression of illegal trade in weapons. Legally held weapons are not a problem, but rather the increasing range of opportunities for the acquisition illegally held weapons and the unlawful modifications of deactivated weapons to fully operational. It is necessary to reach a balance between the regulation of the possession of weapons, restrictions and right of citizens to possess a weapon. An overly strict regime of possession or making it impossible to possess specific categories of weapons has the potential of stimulating the "black market", including using internet based platforms.

The Commission's proposals towards a better registration or tightening of conditions as regards handling of specific categories of weapons can be seen positively.

## SPAIN

"In relation with the document "GENVAL 60" about the "Proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/477/ECC on control of the acquisition and possession of weapons", it has been added in the point 1.c the definition of acoustic weapons, being included within Category C as it appears in point 13.a.iii.

With this respect, it is necessary to point out that several firearms experts groups affirm that the regulation of acoustic weapons can pose a risk of firearms proliferation, due to the facility to transform them in real weapons.

Likewise, it is inconsistent that a firearm of category A, although being deactivated (and because of that suffers a number of modifications much more severe than those that are necessary for converting it into a real firearm in an acoustic one), continues being listed as Category A and, because of that, it is a prohibited weapon, while a firearm of Category A after being converted in an acoustic one, it is considered of Category C and, thus, its possession is allowed."

### ART.1 DEFINITIONS.

- **Point 1h. The current definition can include the regulation of toys with the appearance of firearms, so this is the change suggested:**

For the purposes of this Directive, "replica firearms" shall mean objects that have the physical appearance of a firearm, but are manufactured in such a way that they cannot be converted to firing a shot or expelling a bullet or projectile by the action of a combustible propellant, with the exception of toys with the appearance of a firearm, which be ruled by its specific regulation.

- **New Point 1j. Replica firearms. It is necessary to define the term "firearm replica", in order to specify the scope of application of the Directive concerning Annex I Part III. The following definition is suggested**

**"Concerning this Directive, a "replica of an antique firearm" is the copy of an original firearm, with all its features, characteristics and possibility of use, excepting those firearms that can shoot current ammunition with smokeless powder".**

## **ART 4. MARKING.**

The following considerations are taken into account:

- **Art. 4 point 1.** The following wording is suggested:

" 1. Member States shall ensure either that any firearm or essential part placed on the market has been marked and registered in compliance with this Directive".

- **Art.4 point 2.** There is a contradiction with the latter point, as it only requires one mark in the receiver after being assembled.

**In order to ensure the finding or tracing of not only the essential component that can be placed on the market separately but also those essential component of an assembled weapon without individual marking on such component, which allows its interchangeability with those of another weapon or can be used to transform a deactivated weapon into a fully operational one,**

**The following wording is suggested**

"2. For the purpose of identifying and tracing each assembled firearm and its essential component, the Member States...

**The marking shall be affixed to an essential component."**

- **Art. 4 point 2.** Concerning the need to ensure the safety of the shooter when using firearms and ammunitions, and in compliance with art 11.2 of the Directive, the previous wording of the Directive is suggested;

**"for these purposes, the Member States may opt to implement the dispositions of the Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms**

- **Art. 4 .** Due to the wide situations that may derivate from the marking of firearms, concerning
  - **The type of weapons on which the marking should be affixed:** warning / alarm weapons, signal weapons, replica firearms...
  - **In what components and how should they be marked**
  - **How to ensure its endurance and presence in different materials such as polymers.**

It is suggested that, in compliance with art 13. Bis and 13 Ter, a Committee of Experts that helps the Commission to elaborate delegate acts for the adoption of standards on marking of firearms and their components.

#### **ART 4. REGISTRATION.**

- **Art 4 POINT 4.** The records of dealers and brokers are not connected to official firearms databases; however the communications of data are done on a monthly basis by different means. A technical study should be carried out to study its feasibility.

#### **ART 4.BROKERS.**

- **Art 4b. point.1.** Both control measures are suggested: the registration of brokers and dealers (a) as well as the need of licenses or authorizations for such activities (b).

“Such system will include, at least, **the following measures**”

#### **ART.10. DEACTIVATION.**

- **Art 10 b) first paragraph.** In compliance with the Regulation on Deactivation of firearms, of 19 November 2015, it is mandatory the certificate of deactivation AND the marking on the firearm, so the following wording is suggested:

“Member States, in the framework of this verification, will issue a certification or document that states that the firearm has been properly and fully deactivated, AND the inclusion of a clearly visible mark on the firearm for that purpose”

## **ANNEX I. CONVERSION.**

- **ANNX I. Cat A.7.** Semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms”.

This sub-category is not clearly defined, so an explanation on the following wording is requested:

“...which resemble weapons with automatic mechanisms”

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