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#### **COVER NOTE**

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From:	Presidency
To:	Working Party on General Matters, including Evaluations (Firearms)
No. Cion doc.:	COM(2015) 750 final
Subject:	Draft DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons = Revised text

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1. Subsequent to the completion of the first round of discussion on the proposal in January 2016, the Presidency submitted to GENVAL a revised text of the proposal, taking into account as much as possible the various concerns raised by delegations.
2. GENVAL discussed the revised text at its meeting of 8 February 2016. In the light of interventions during the meeting and comments in writing submitted by delegations by 12 February 2016, the Presidency further amended the text as set out in the Annex.
3. Furthermore, in order to seek political guidance on certain aspects of the proposal, the Presidency had invited Ministers to discuss five key issues at the Council meeting of 10 March 2016. The debate focussed on the following five issues:

- (A) Allowing the acquisition and possession of firearms by minors, in which respect Ministers favoured to maintain the current rule and rejected the Commission proposal to only authorise minors to use firearms under certain conditions.
- (B) Medical tests as a precondition for the authorisation of firearms, where the Presidency concluded that a majority around the table rejected that the Directive should contain a mandatory requirement of a medical test. The Presidency therefore proposes to amend the text of Article 5(2) of the Directive in such a way that the medical test is optional for Member States.
- (C) Prohibition of semi-automatic firearms, where a majority of Member States appeared to be in favour of the option that acquiring and possessing firearms should continued to be authorised but under stricter conditions still to be defined, but many Member States argued for technical specifications to describe the most dangerous semi-automatic firearms and other Member States pleaded for combing both. The Presidency therefore has drafted a proposal consisting of the following elements:
- clear technical specifications allowing to define a group of semi-automatic firearms, which would be moved to category A and hence be prohibited (Annex I, Cat A.7);
  - continuing to allow the authorisation of all other semi-automatic firearms in category B, but subjecting their use to certain conditions set out in Article 7(2) and in Article 10aa; and
  - providing in Article 7(4a) for a transition regime in which owners of currently authorised B.7 firearms can continue to own and use them and have their use authorisation prolonged, but it would be impossible to transfer ownership of those weapons (regardless of the mode of transfer of ownership: sale, gift, inheritance).
- (D) Exceptional possession of prohibited firearms for cultural and historical reasons: in which respect a strong majority of Member States favoured to maintain the national legislative leeway as in the current Directive and Article 6(2) has been kept.

- (E) Online sales of firearms, where delegations were divided and further work was deemed to be done at technical level. The Presidency suggests a proposal consisting of the following elements:
- amending Article 6 so as to stipulate that in case of online sale the identity and, where applicable, the authorisation of the buyer, needs to be checked at the moment of the delivery of the firearm, either by a dealer or by a public authority; and
  - amending Article 11, so as to clarify that the requirements contained therein apply not only mail order but also for online sale.
4. The current revised text set out in the Annex takes into account the discussions of the draft Directive both at Working Party and at Council level. Changes are underlined compared to the initial Commission proposal, changes to the previous version of the revised text are marked in **bold and underlined**. Member States are invited to consider the current version of the text in view of the next meeting of the Genval Working Party.
5. Following the terrorist attacks in Brussels on 22 March 2016, the Ministers for Justice and Home Affairs at their meeting on 24 March 2016, expressed the need to pursue in a resolute manner the swift completion of legislation on control of the acquisition and possession of firearms.
6. With a view to achieving progress and on crucial articles of the Directive, the Presidency invites Member States to negotiate in a constructive manner by agreeing to the text proposals set out in the Annex or by proposing their own amendments.
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Proposal<sup>1 2</sup> 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<sup>3</sup>**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114<sup>4</sup> thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Directive 91/477/EEC<sup>5</sup> established an accompanying measure for the internal market. It created a balance between, on the one hand, the undertaking to ensure a certain freedom of movement for some firearms within the Union, and, on the other **hand**, the need to control this freedom using security guarantees suited to this type of product.
- (2) As a response to recent terrorist acts which demonstrated gaps in the implementation of Directive 91/477/EEC especially with regard to deactivation of weapons, convertibility and marking rules, the "European Agenda on Security" adopted in April 2015 and the Declaration of the Home Affairs Ministers Council of 29 August 2015 called for the revision of that Directive and for a common approach on the deactivation of firearms to prevent reactivation and use by criminals.
- (3) Certain issues in Directive 91/477/EEC need further improvement.

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<sup>1</sup> With participation of the associated countries.

<sup>2</sup> Text with EPA relevance.

<sup>3</sup> General scrutiny reservation: BG, CZ, DK, DE, LU, RO SI, FI, UK, CH.

<sup>4</sup> AT: check whether legal basis covers sufficiently internal security concerns.

<sup>5</sup> Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons (OJ L 256, 13.9.1991, p. 51).

- (4) (...)<sup>6</sup>.
- (5) Since collectors have been identified as a possible source of traffic of firearms, they should be covered by this Directive.
- (6) Since brokers provide services similar to those of dealers, they should also be covered by this Directive.
- (7) Taking into consideration the high risk of reactivating badly deactivated weapons and in order to enhance security across the Union, deactivated firearms should be covered by this Directive.
- (7a)** Additionally, for the most dangerous firearms stricter rules should be introduced in order to ensure that those firearms are, **with some limited exceptions to the rule**, not allowed to be owned or traded. (...) Where those rules are not respected, Member States should take appropriate measures including the destruction of those firearms.
- (8) In order to ensure the traceability of deactivated firearms, they should be registered in national registries.
- (9) Some semi-automatic firearms can be easily converted to automatic firearms, thus posing a threat to security. Even in the absence of conversion to category "A", certain semi-automatic firearms may be very dangerous when their capacity regarding the number of rounds is high. Such semi-automatic weapons should therefore be banned for civilian use.
- (10) To avoid that markings are easily erased and to clarify on which components the marking should be affixed, common Union rules on marking should be introduced.
- (11) Firearms may be used for far more than 20 years. In order to ensure their traceability, records of them should be kept for an indeterminate period of time until destruction is certified.
- (12) Selling arrangements of firearms and their components by means of distance communication may pose a serious threat to security as they are more difficult to control than the conventional selling methods, especially as regards the on line verification of the legality of authorisations. It is therefore appropriate to **enhance the specific provisions for** the selling of **firearms** and **their** components by means of distance communication, notably internet (...).
- (13) Furthermore, the risk of **acoustic** weapons and other types of blank firing weapons being converted to real firearms is high, and in some of the terrorist acts converted arms were used. It is therefore essential to address the problem of converted firearms being used in criminal offences, notably by including them in the scope of the Directive. Technical specifications for alarm and signal weapons as well as for salute and acoustic weapons should be adopted in order to ensure that they cannot be converted into firearms.

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<sup>6</sup> Deleted as this is now implicitly covered by recital 7a.

- (13a) Objects, that have the physical appearance of a firearm ("replica"), 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, are not covered by this Directive.**
- (14) In order to improve the functioning of the information exchange between Member States, the Commission should assess the necessary elements of a system to support such exchange of information contained in the computerised data-filing systems in place in Member States. The Commission's assessment may be accompanied, if appropriate, by a legislative proposal taking into account existing instruments regarding exchange of information.
- (15) In order to ensure appropriate exchange of information between the Member States on authorisations granted and on refusals, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of adopting an act to enable the Member States to create such a system of exchange of information on authorisations granted and on refusals. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (16) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>7</sup>.
- (17) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.
- (18) Since the objectives of this Directive cannot be sufficiently achieved by the Member States, but can rather, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (19) Directive 91/477/EEC should therefore be amended accordingly.

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<sup>7</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).

HAVE ADOPTED THIS DIRECTIVE:

*Article 1*<sup>8</sup>

Directive 91/477/EEC is amended as follows:

(1) Article 1 is amended as follows:

(a) **Paragraph 1a is deleted**<sup>9</sup>.

**(aa)** Paragraph 1b<sup>10</sup> is replaced by the following:

"1b. For the purposes of this Directive, "essential component" means (...) <sup>11</sup> the barrel, **loader**<sup>12</sup>, **chamber**<sup>13</sup>, frame, receiver<sup>14</sup>, slide or cylinder, bolt or breech block<sup>15</sup> which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted. (...) <sup>16</sup>

(b) Paragraph 1e<sup>17</sup> is replaced by the following:

"1e. For the purposes of this Directive, "broker"<sup>18</sup> means: any natural or legal person, **or partnership resident in a Member State** other than **the dealer or the buyer, whose activity, in exchange for a payment or any advantage** (...) consists wholly or in part **in facilitating the negotiation or organisation of transactions for the purpose of** (...) buying, selling, or arranging the transfer **of firearms, essential components or ammunition** within a Member State, from one Member State to another Member State, from a Member State<sup>19</sup> to a third country or from a third country to a Member State<sup>20,21</sup> (...)."

<sup>8</sup> The Presidency is still reflecting on introducing definitions for collectors and bodies concerned as well as for antique weapons.

<sup>9</sup> As only essential components are subject to obligations under this Directive, there is no need for a definition of 'parts'.

<sup>10</sup> Due to overlapping of 1a and 1b, to be re-examined: BG, DE, ES, FR, LU, SK; deletion of 1a suggested by CZ, IT, PL, CH; New proposal by CZ, supported by FI.

<sup>11</sup> Deletion suggested by BE, CZ, DE, IT, CY, SI, UK,; closed list requested by DE, CZ, CY, UK, including removable magazines by BE IT, PT, BG, ES.

CZ, UK delegation stated the need to clarify the definitions of "essential components" and "parts".

<sup>12</sup> Suggested by BE, IT; FR asks for a definition at European level.

<sup>13</sup> Suggested by DE, SK.

<sup>14</sup> DE requested further defining: upper and lower receiver.

<sup>15</sup> Suggested by FR.

<sup>16</sup> Deletion suggested by BG, EE, ES, FR, IT, LU, PL, RO, SK SI, UK, CH.

<sup>17</sup> Definition of "broker" should be under paragraph 2.

<sup>18</sup> IT, FR, PL, RO, UK requested to define the term to distinguish from "dealer", with regard to mediating activities of broker who ' furthermore, is not owner of firearms. FR suggested to align paragraph to Regulation (EC) No 428/2009 of 5 May 2009; DE, UK considered distinction between broker and dealer as artificial.

<sup>19</sup> Suggested by DE.

<sup>20</sup> Suggested by DE; opposed by UK since third country aspects should be covered by Regulation 258/2012.

<sup>21</sup> Addition suggested by FI: "or, when the broker is established in the EU, between third countries,..."

- (c) In paragraph 1, the following paragraphs are added<sup>22</sup>:
- 1f. For the purposes of this Directive, "alarm and signal weapons"<sup>23</sup> means (...)<sup>24</sup> devices with a cartridge holder (...) designed to fire only blanks, irritants, other active substances or pyrotechnic ammunition **and cannot be converted into a firearm with conventional tools.**<sup>25</sup>
  - 1g. For the purposes of this Directive, "salute and acoustic weapons"<sup>26</sup> means firearms specifically converted to the sole use of firing blanks, for use such as in theatre performances, photographic sessions, film and television recordings, historical reenactments, parades, sporting events and training **and cannot be converted into a firearm with conventional tools.**<sup>27</sup>
  - 1h. (...)
  - 1i. For the purposes of this Directive, "deactivated firearms" means firearms that have been **deactivated** (...) <sup>28</sup>in accordance with<sup>29</sup> Commission Implementing Regulation (EU) 2015/2403 (...) <sup>30</sup>"
- (d) Paragraph 2 is replaced by the following:
- "2. For the purposes of this Directive, "dealer" means any natural or legal person whose trade or business consists wholly or in part of any of the following:
- (i) the manufacture, trade, exchange, hiring out, repair or conversion of firearms, essential components (...) <sup>31</sup> **of firearms**<sup>32</sup>; or
  - (ii) the manufacture, trade, exchange, **loading**<sup>33</sup> or conversion of ammunition."

<sup>22</sup> IE: add definition of gas weapons.

<sup>23</sup> Distinctive definitions requested by CY, SK.

<sup>24</sup> Deletion suggested by FR.

<sup>25</sup> DE suggestion. HU suggested adding: "This Directive shall not apply to any alarm and signal weapons placed on the internal market before it entered into force."

<sup>26</sup> Distinctive definition requested,; IT: replace by "scenic weapons".

<sup>27</sup> DE suggestion. Deletion of list of purposes suggested by SK.

<sup>28</sup> Deletion suggested by DE.

<sup>29</sup> Suggested by DE, CZ.

<sup>30</sup> Commission Implementing Decision (EU) 2015/2403 of 15 December 2015 establishing common guidelines on deactivation standards and techniques for ensuring that deactivated firearms are rendered irreversibly inoperable, OJ, L 333/62, 19.12.2015.

<sup>31</sup> Deletion suggested by CZ, supported by DE, UK and CH.

<sup>32</sup> Suggested by FR, rewording suggested by UK.

<sup>33</sup> Addition suggested by FR.



(2) In Article 2, paragraph 2 is replaced by the following:

"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, or the public authorities. Neither shall it apply to commercial transfers (...) <sup>34</sup> as regulated by Directive 2009/43/EC <sup>35 36</sup> (...)."

(3) In Article 4, paragraphs 1, 2 and 3 are replaced by the following:

"1 <sup>37</sup>. Member States shall ensure that any firearm or <sup>38</sup> essential component thereof <sup>39</sup> placed on the market <sup>40</sup> has been :

**(i) provided with a unique marking, which is clear and permanent** <sup>41</sup> and

**(ii) is registered in compliance with this Directive without delay after manufacture or import to the Union** <sup>42</sup>.

**The Commission shall adopt technical specifications for the marking. The implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13 b(2).** <sup>43</sup>

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<sup>34</sup> Deletion suggested by FR.

<sup>35</sup> Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community, OJ L 146/1, 10.6.2009.

<sup>36</sup> Suggested by FR, CZ.

<sup>37</sup> Suggested by FI: "Member States shall ensure that each assembled firearm placed on the market or individual essential component placed on the market separately has been marked ..."

<sup>38</sup> IT: "and essential components".

<sup>39</sup> Suggested by PL, FI, ES, PT, SK.

<sup>40</sup> FI raised the attention that there should be a possibility to mark a firearm directly after it is being imported to the EU.

<sup>41</sup> Suggested by ES, FR; IT "in an indelible way"; DE: "clearly and permanently marked according to the state of the art".

<sup>42</sup> Addition suggested by DE.

<sup>43</sup> Addition suggested by FR.

2<sup>44</sup>. For the purposes of identifying and tracing each (...) <sup>45</sup>firearm and its essential components <sup>46</sup>, Member States shall, **without delay (...) after** manufacture (...) or (...) import to the Union <sup>47</sup> (...), require a unique marking <sup>48</sup>including the name of the manufacturer, the country or place of manufacture, **the brand, the model, the calibre** <sup>49</sup>the serial number, and the year of manufacture, if not already part of the serial number. This shall be without prejudice to the affixing of the manufacturer's trademark.

(...)

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 those purposes, Member States may have regard to the provisions of the Convention on Reciprocal Recognition of Proofmarks on Small Arms of 1 July 1969 <sup>50</sup>.

Furthermore, Member States shall ensure, at the time of transfer of a firearm from government stocks to permanent civilian use, the **appropriate** <sup>51</sup>unique marking permitting identification of the transferring entity.

3. (...) <sup>52</sup>

(4) <sup>53</sup>In Article 4, paragraph 4 <sup>54</sup>is amended as follows:

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<sup>44</sup> HU, FI specified that if the firearms is imported the year of import should be marked before it is placed on the market.

<sup>45</sup> Deleted at the suggestion of DE.

<sup>46</sup> Suggested by ES.

<sup>47</sup> Wording suggested by DE.

<sup>48</sup> Concerns about loss of value of historical firearms, concerns about feasibility of full size marking from IT, MT, SK.

<sup>49</sup> Addition suggested by DE, FR, IT.

<sup>50</sup> A number of delegations (ES, SK, CZ, BE, UK) requested restoring this provision. Small adaptation has been made as suggested by CZ to clarify that the Convention to which not all MS are members does not represent an alternative regime to the EU one. In this regard FR raised the question whether accession to that Convention should be considered by the EU.

<sup>51</sup> Suggested by FI.

<sup>52</sup> Moved to Article 4b.

<sup>53</sup> FR suggested a merge with 4b.

<sup>54</sup> FR rewording see 5342/3/16 REV 3.

(a) in the first subparagraph, the second sentence is replaced by the following:

"This filing system shall record:

- the type, make, model, calibre and serial number of each firearm **and the essential components thereof; and**

- the names and addresses of the supplier and of the person acquiring or possessing the firearm **and the essential components thereof.**

The record of firearms (...) <sup>55</sup>, **and the essential components thereof** shall be maintained for an indefinite <sup>56</sup>period<sup>57</sup>."

(b) the second subparagraph is replaced by the following:

"Throughout their period of activity, dealers<sup>58</sup> and brokers shall be required to maintain a register<sup>59</sup> in which **each** firearm **and the essential components thereof** subject to this Directive and which are received or disposed of by them shall be recorded, together with such particulars as enable the firearm **and the essential components thereof** to be identified and traced, in particular the type, make, model, calibre and serial number thereof and the names and addresses of the person supplying and acquiring it.

Upon the cessation of their activities, dealers and brokers shall deliver that register to the national authority responsible for the filing system provided for in the first subparagraph.

Each Member State shall ensure that the registers of the dealers and brokers established in their territory are connected to **the** computerised data-filing system of firearms **and the essential components thereof.**"

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<sup>55</sup> Deletion suggested by DE, FI, UK, CH.

<sup>56</sup> Specification of period needed : CH.

<sup>57</sup> AT, DE, LU, ES, IT, FR (keep data including of the export). PT, HR underlined the need to keep each entry, changing only the status of the firearm. FI suggests adding: , or in case of an exported firearm, 20 years after the export;"

<sup>58</sup> Covers manufacturers according to its definition.

<sup>59</sup> UK agrees, doubts CH; IT: distinguish between content of dealer's and broker's register, latter should be about "carried out operations".

- (5) Article 4b is replaced by the following:

*"Article 4b*

1. Member States shall establish a system for the regulation of the activities of dealers and brokers. Such a system **shall** include **at least**<sup>60</sup> the following measures:
  - (a) registration of dealers and brokers<sup>61</sup> operating within the territory **of each Member State**; and
  - (b) licensing or authorisation of the activities of dealers and brokers **within their territory**.

2<sup>62</sup>. The system referred to in paragraph 1 (b) 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."

- (6) Articles 5 and 6 are replaced by the following:

*"Article 5*

- 1 Without prejudice to Article 3, Member States shall authorise the acquisition and possession of firearms<sup>63</sup> 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 licensed or otherwise approved training centre;<sup>64</sup>
  - (b) are not likely to be a danger to themselves<sup>65</sup>, to public order or to public safety; having been convicted of a violent intentional crime shall be considered as indicative of such danger.
  - (c) (...)

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<sup>60</sup> ES specified that measures should be cumulative.

<sup>61</sup> UK: concerns about requirements to be placed on brokers: no need for brokers to be on a pre-approved register.

<sup>62</sup> FR suggested the addition of the obligation for manufacturers and dealers to have secure facilities to store the firearms they hold.

<sup>63</sup> IE: clarify that it only refers to Cat B and not to Cat C, D firearms.

<sup>64</sup> Reinstated after Council discussion.

<sup>65</sup> Addition by FI "or others,...".

2. Member States **may** make the issuance or renewal of the authorisations referred to in paragraph 1 subject to (...) medical, including psychological, review.

Member States shall withdraw (...) authorisations for possession of a firearm (...) if any of the conditions on the basis of which the authorisation was granted is no longer met.

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

#### *Article 6*

1. Without prejudice to Article 2(2), Member States shall take all appropriate steps to prohibit the acquisition and the possession of the firearms and ammunition listed in category A in Annex I. They shall ensure that (...) those firearms and ammunition unlawfully held in contravention of that prohibition are seized<sup>66</sup>.

2.<sup>67</sup> In special cases for national defence, educational, cultural, research and historical purposes and without prejudice to Article 6(1), the competent authorities may grant authorisations for (...) such firearms and ammunition where this is not contrary to public security or public order.<sup>68</sup>

3. (...)

4. Member States shall ensure that in case of the acquisition and selling<sup>69</sup> of firearms and their essential components and ammunition covered by categories A, B, C [and D<sup>70</sup>] set out in Annex I by means of distance communication<sup>71</sup>, as defined in Article 2 of Directive 97/7/EC of the European Parliament and of the Council(\*\*), **the identity, and where required, the authorisation of the person acquiring the firearm and the essential components thereof is controlled upon delivery thereof to that person, by:**

- an authorised dealer or broker; or
- a public authority representative.

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(\* ) OJ: Please insert a date: data of publication of this amending Directive +20 days.

(\*\* ) 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, p.19)."

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<sup>66</sup> Up to Member States what to do with such firearms: EE.

<sup>67</sup> EE suggested harmonised wording as to "public security, public order, public safety" throughout the text, see 5.1.a

SE: "In cases where Member States considers it necessary for national security purposes, the competent authorities may grant authorization for the acquisition and possession of such firearms and ammunition".

<sup>68</sup> DE, AT, UK, FR, EE, NO, PL, HU, CZ, EL, LT, DK, IT, - need to provide exceptions, FI, LV, DE - compensation, SK, CH support 6.2, COM objects to 6.2.

<sup>69</sup> Suggested by LT, CH, FR.

<sup>70</sup> Suggested by CZ, HR, FR.

<sup>71</sup> Delegations requested more clarity regarding this prohibition as well as an alternative BG, DE, EE, HR, FI, SE, UK.

(7) **In Article 7, the following paragraph is added after paragraph 2:**

**"2a. An authorisation to acquire or possess a firearm listed in category 7 under B set out in Annex I of the Directive shall be granted only for the purposes of hunting or sport shooting."**

(7a) In Article 7<sup>72</sup>, the following subparagraph is added to paragraph 4, after point c):

"The maximum (...) authorisation for possession of a firearm shall not exceed five years<sup>73</sup>. The authorisation may be renewed if the conditions on the basis of which it was granted are still fulfilled."

(7b) **In Article 7, the following paragraph is added after paragraph 4:**

**"4a. Member States may renew an authorisation for a firearm which were classified in category 7 under B set out in Annex I of the Directive, as amended by Directive 2008/51/EC<sup>74</sup>, even if the firearm is currently classified in category A. However, such authorisations may be renewed only for persons already holding an authorisation before [the date referred to in Article 3 of this Directive]."**

(8) The following Articles 10a and 10b are inserted:

*"Article 10a<sup>75</sup>*

1. 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).

**2. Salute and acoustic weapons remain in their original classification<sup>76</sup>.**

**3. Alarm and signal weapons that do not fulfill the technical specifications of Article 10a(1) must be classified in categorie B or C.<sup>77</sup>**

<sup>72</sup> Additional paragraph 7(5) suggested by SE: "Member States may adopt exemptions from this rule in cases where the competent authorities deem it not being contrary to public security, for example regarding semi-automatic firearms for hunting with limited firing capacity, with limited magazine capacity or when the circumstances otherwise are deemed to allow for it."

<sup>73</sup> More flexibility as to time limit, emphasis on robust procedures as to issuing licenses: SE UK DK (10 years), scrutiny reservation: DE objects to current version; Emphasis on checking every 5 years CZ, IT, PL COM Revised text supported by PT: FI 7(4)b) periodic review every five years... and delete COM addition after 7(4)c).

<sup>74</sup> Directive 2008/51/EC of the European Parliament and of the Council of 21 May 2008 amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons, OJ 179/5, 8.7.2008.

<sup>76</sup> Addition suggested by FR.

<sup>77</sup> Addition suggested by FR.

Article 10 aa<sup>78</sup>

Member States shall establish rules on the proper storage of firearms and ammunition to ensure that they are kept under supervision and stored in a **secure** way **to minimise the risk of being accessed by an unauthorised person and whereby the rules stipulate that firearms and ammunition are stored apart**. Supervision in this case shall mean that the person possessing the firearm or the ammunition has (...) <sup>79</sup> control over them and shall include as a minimum the storage in a (...) <sup>80</sup> safe box when the firearm or ammunition is not in use. The level of scrutiny for the storage arrangements shall correspond to the level category of the firearm <sup>81</sup>.

(...) <sup>82</sup>

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 and<sup>83</sup> record attesting to the deactivation of the firearm and<sup>84</sup> the apposition of a clearly visible mark to that effect on the firearm.

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

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<sup>78</sup> Suggested by SE; support from LT, HU LV also raised the need of setting up an obligation for the holder of firearms to ensure conditions for their proper storage.

Suggested rewording by FR: 10.a.a. Member States shall provide for rules on storage of firearms and ammunition that ensure that these are ~~kept under supervision and~~ stored in a way so that there is no risk that an unauthorized person will get access to the firearm or ammunition. ~~Supervision in this case shall mean that the person possessing the firearm or ammunition has immediate control over these and shall include as a minimum storage in a standardized safe box when the firearm or ammunition is not being used.~~ The level of security for the storage arrangements shall correspond to the level of dangerousness a weapon has and the number of stored weapons.

<sup>79</sup> CY, FI: delete reference to immediate control; FI.

<sup>80</sup> Deletion suggested by AT.

<sup>81</sup> Addition suggested by FI; firearm "in question".

<sup>82</sup> Considered as a matter of subsidiarity and deletion suggested by PL and UK.

<sup>83</sup> FR, BG, ES and confirmed by COM.

<sup>84</sup> Suggested by DE.

(9) **In Article 11, paragraph 1 is amended as follows:**

**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 selling<sup>85</sup> **or selling by means of distance communication**<sup>86</sup>, **as defined in Article 2 of Directive 97/7/EC of the European Parliament and of the Council.**

(10) In Article 13, the following paragraphs 4 and 5 are added<sup>87</sup>:

"4. The competent authorities of the Member States shall exchange by electronic means<sup>8889</sup> information on the authorisations granted for the transfers of firearms to another Member State as well as information with regard to refusals to grant authorisations as defined in Article 7.<sup>90</sup>

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 13a concerning the detailed arrangements for the exchange of information on authorisations granted and on refusals."

(11) Article 13a is replaced by the following:

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<sup>85</sup> Suggested by LT, CH, FR.

<sup>86</sup> Delegations requested more clarity regarding this prohibition as well as an alternative BG, DE, EE, HR, FI, SE, UK,.

<sup>87</sup> Deletion suggested by CH since cross-border significance of information exchanged is limited.

<sup>88</sup> Supported by DE, IT, FI, SE, UK, FR.

<sup>89</sup> Rewording suggested by FR:

"13.4. The competent authorities of the Member States ~~shall~~ exchange by electronic means 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.~~ licenses issued or refused mentioned in paragraphs 1 and 2 above, via a European platform for data exchange before [date].

13.5. The Commission shall provide for the establishment and the maintenance of a European platform for data exchange no later than [date], and is empowered to adopt delegated acts in accordance with Article 13a to define the modalities for exchange of information on the authorizations granted and on refusals."

LT : COM should establish EU central database.

<sup>90</sup> Concerns as to personal data protection; AT concerns about data protection in case of bulk exchange of personal data, suggests data exchange only in cases with cross-border dimension.



*"Article 13a<sup>91</sup>*

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."

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<sup>91</sup> DE requested that the article specifies the areas in which Commission is empowered to adopt delegated acts.

(12) Article 13b is inserted:

*"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(\*).
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

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(\* 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)."

(13) Article 17 is replaced by the following:

*"Article 17*

The Commission shall submit every five years a report to the European Parliament and the Council on 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.<sup>92</sup>"

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<sup>92</sup> Addition suggested by FI "and include issues related to new technologies."

(14) (...) Annex I to Directive 91/477/EC (...) is amended as follows:<sup>93</sup>

(a) part II is replaced by the following:

"For the purposes of this Directive, the following categories of firearms are set out:<sup>94</sup>"

(i) point A and definition of firearms are deleted<sup>95</sup>.

(ii) in Category A, the following points are added:

"6<sup>96</sup>. Automatic firearms which have been converted into semi-automatic firearms<sup>97</sup>;

<sup>93</sup> Substantial reservation on (13) as a whole : SK.

<sup>94</sup> Suggested rewording by FR:

" 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.~~

5. Ammunition over 12,7 mm calibre for rifled barreled firearms;

6. Automatic firearms which have been converted into semi-automatic firearms.

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

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 30 cm.

~~5. Alarm and signal weapons, as well as replicas;~~

Salute and acoustic weapons stay in the category in which they would fall according to how they were originally built.

~~6. Firearms from categories A, B C, [and D] that have been deactivated in accordance with Regulation on deactivation.~~

Category D — Other firearms

1) Firearms subject to registration:

Single-shot long firearms with smooth-bore barrels.

2) Firearms on free sale and detention are those that:

i) have been rendered permanently unfit for use by deactivation according to the European regulation xxxx/xx;

ii) were designed for alarm, signalling, life-saving, animal slaughter or harpoon fishing bird scaring or for industrial or technical purposes, provided that they can be used for the stated purpose only;

iii) are regarded as antique weapons according to national laws

<sup>95</sup> LT delegation pointed out the existence of two definitions of firearms in the text of the Directive.

<sup>96</sup> Scrutiny reservation CZ, LT, PL transfer A6 to B7, Deletion from A: BG, EE, IT, LT, MT, SK.

<sup>97</sup> CY, AT, SE, ES, DE, PT, MT, BG supported this point. PL to B7 IT expressed the view that there is no need of this provision. objection: CZ LT.

7.<sup>98</sup> Semi-automatic firearms with one or more of the following characteristics:

a) equipped or capable to be equipped with a firing capacity exceeding six rounds without reloading;

b) long firearm with pistol grip;

c) [long fire|arm of less than 830 mm in length;

d) [long fire|arm with a barrel length of less than 450 mm.

8. (...) <sup>99</sup>

(iii) in category B (...)

4. Semi-automatic long firearms whose magazine and chamber can together hold more than three but less than seven rounds.

7. Semi-automatic weapons for civilian use other than those listed under point 7 of category A.

(iv) In Category C, the following points are added:

"5. Alarm and signal weapons (...) <sup>100</sup>;

Salute and acoustic weapons stay in the category <sup>101</sup> in which they would fall according to how they were originally built.

6. Firearms from categories A, B, C [and D <sup>102</sup>] that have been deactivated <sup>103</sup> in accordance with Regulation (EU) 2015/2403 on deactivation <sup>104</sup>."

(b) (...) point B <sup>105</sup> and the following text are deleted.

"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."

<sup>98</sup> Suggest to delete A7 and re-instate B7: BG, EE, FR, IT, LT, MT, SK, FI, CH.  
SE: "Semi-automatic long firearms for civilian use which have or can be equipped with magazines with a capacity exceeding 5 rounds, or firearms which are constructed in a way that they are more appropriate for combat than for hunting."

<sup>99</sup> Suggested by AT, LT, CZ, HU, DE, PT, EE, MT, BE, IT, FR.

<sup>100</sup> FI: add replicas to next sentence: Salute and acoustic weapons as well as replicas ....., LT: move replicas to B

<sup>101</sup> LT: Move to Category B.

<sup>102</sup> Suggest to classify D under C: CH, IE suggests to delete Cat D.

<sup>103</sup> Suggested to delete deactivated weapons from category C: UK; maintain: LT.

<sup>104</sup> Suggested by FR, EE, BE, IT, BG; SK acceptable for weapons deactivated after entry into force of this Directive

<sup>105</sup> As indicated by DE the deletion of point A and the whole text of point B requires the deletion of the point itself.

(15) in Annex I to Directive 91/477/EC part III is amended as follows:

(a) point (a) is deleted;

(b) point (b) is replaced by the following:

"are solely<sup>106</sup> designed for life-saving, animal slaughter or harpoon fishing or for industrial or technical purposes provided that they can be properly used for the stated purpose only;"

(c) the second subparagraph is deleted.

#### *Article 2*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive [12<sup>107</sup> months after publication to the OJ]. They shall forthwith communicate to the Commission the text of those provisions.

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.

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.

#### *Article 3*

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

#### *Article 4*

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

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<sup>106</sup> Additions suggested by HU.

<sup>107</sup> PL, DK, CZ, SK, HU, LT, PT, RO, CY, MT. 24 months was proposed by SK, DE, PT, RO, HR, BG. Several indicated the need of transitional provisions (CY, AT; NO, LT). CH: 2 years; FR 6 months for elements easily to transpose, longer delays for elements needing adoption of legislative acts, AT asks for transition periods.