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NOTE

From: Presidency
To: Permanent Representatives Committee

Subject: 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 (First reading)
- Confirmation of the final compromise text with a view to agreement

The Commission presented its 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 on 18 November 2015 (COM (2015) 750 FINAL).

After examination of the proposal by the JHA Counsellors and by the Working Party on General Matters including Evaluation (GENVAL), the general approach was reached by the Council on 10 June 2016.

The EP IMCO Committee adopted its orientation vote on 13 July 2016 and conferred a negotiation mandate on the Rapporteur on 5 September 2016.

Four trilogues and a number of technical meetings have been held since September. At the last trilogue on 5 December 2016, the Presidency and the EP Rapporteur reached an agreement on the text set out in Annex to this note.

The EP Rapporteur, Mrs Ford, indicated that the European Parliament intends to adopt its position in first reading during the plenary session in March 2016.

In view of the above COREPER is invited:

- a. to confirm the final compromise text of the proposed Directive, as set out in the Annex to this note*
 - b. to mandate its Chair to communicate to the European Parliament the confirmation of the political agreement via the habitual letter, with a view to reaching an agreement in first reading.*
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Proposal^{1 2} 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 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 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/EEC³ 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 and essential components thereof within the Union, and, on the other hand, the need to control that freedom using security guarantees suited to this type of products in question.

¹ With participation of the associated countries.

² Text with EEA relevance.

³ 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).

- (2) Certain issues arising from Directive 91/477/EEC need to be further improved in a proportionate way, to address misuse of firearms for criminal purposes, and considering recent terrorist acts. The "European Agenda on Security" adopted in April 2015 called for the revision of that Directive and for a common approach on the deactivation of firearms to prevent their reactivation and use by criminals.**
- (2a) Once firearms are lawfully acquired and possessed in accordance with the provisions of this Directive, national provisions concerning the carrying of weapons, hunting or target shooting should apply.
- (3) (...)
- (4) (...)
- (5) (...)
- (6) Since brokers provide services similar to those of dealers, they should also be covered by **Directive 91/477/EC in respect of the obligations of dealers that are relevant to brokers' activities, to the extent that they are in a position to carry out those obligations and insofar as these are not carried out by a dealer regarding the same underlying transaction.**
- (6a) For the purposes of this Directive, the definition of a broker should be understood to cover any natural or legal person including partnerships. For the purposes of this Directive, the term "supply" should be deemed to include lending and leasing. The activities of a dealer include not only the manufacturing but also the modification or conversion of a firearm, essential components and of ammunition, such as the shortening of a complete firearm, leading to a change in its category or subcategory. Purely private, non-commercial, activities, such as hand-loading and reloading of ammunition from ammunition components for own use or modifications of firearms owned or essential components owned, such as changes to the stock or sight or maintenance to address wear and tear of components, should not be considered activities that only a dealer would be permitted to undertake.**
- (6b) Brokers and dealers should be able to refuse to complete any suspicious transaction for the acquisition of complete rounds of ammunition or live primer components of ammunition. A transaction may be considered suspicious if, for example, it involves quantities uncommon for the envisaged private use, if the purchaser appears unfamiliar with the use of the ammunition or if he insists on paying in cash while being unwilling to provide proof of their identity. Brokers and dealers should also be able to report such suspicious transactions to the competent authorities.**

- (7) Taking into consideration the high risk of reactivating improperly deactivated firearms and in order to enhance security across the Union, such firearms should be covered by this Directive. Additionally, taking into consideration the principles of deactivation of firearms as provided for by the Protocol against the Illicit Manufacturing of and Trafficking of Firearms, their Parts and Components and Ammunition, attached to Council Decision 2014/164/EU of 11 February 2014^[2], which transposes that Protocol into the EU legal framework, a definition of deactivated firearms corresponding with the above-mentioned principles should be given.
- (7a) Regarding the obligation of Member States to have a monitoring system in place in order to ensure that the conditions for a firearms authorisation are met, Member States should decide whether or not the assessment involves a prior medical or psychological test.**
- (7b) The assessment of relevant medical or psychological information should not be assumed to assign any liability to the medical professional or other persons providing such information for the misuse of firearms which are possessed in accordance with this Directive, without prejudice to national laws addressing professional liability.**
- (7c) Firearms and ammunition should be stored in a secure manner when not immediately supervised. If stored other than in a safe, firearms and ammunition should be stored separately from each other. When the firearm and ammunition must be handed over to a carrier for transport, that carrier is responsible for supervision and storage. Criteria for storage and for safe transport should be defined by national law, taking into account the number and nature of the firearms concerned.**
- (7d) For the most dangerous firearms stricter rules should be introduced in order to ensure that those firearms are, with some limited and duly reasoned exceptions to the rule, not allowed to be owned or traded. Where those rules are not respected, Member States should take appropriate measures which may include the impounding of those firearms.**
- (7e) Member States should, however, have the possibility to authorise the acquisition and the possession of prohibited firearms when necessary for educational, cultural, including film and theatre, research or historical purposes. Authorised persons could include, inter alia, armourers, proof houses, manufacturers, certified experts, forensic scientists and, in certain cases, those involved in film or television recordings. Member States should also be allowed to authorise individuals to acquire and possess otherwise prohibited firearms and essential components thereof for national defence, such as in the context of voluntary military training provided under Member State law.

^[2] Council Decision of 11 February 2014 on the conclusion, on behalf of the European Union, of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime; OJ L89 of 25.03.2014, p.7

- (7f) *It should be possible for Member States to choose to grant authorisations to recognised museums and collectors for the acquisition and the possession of prohibited firearms and ammunition when necessary for historical, cultural, scientific, technical, educational or heritage purposes, provided that they demonstrate, prior to being granted authorisation, that they have taken the necessary measures to address any risks to public security or public order, including by way of secure storage. Any such authorisation should take into account and reflect the specific situation, including the nature of the collection and its purposes and Member States should ensure a system in place for monitoring collectors and collections.*
- (7g) The Directive should not prevent dealers and brokers from handling firearms prohibited in accordance with this Directive in cases where the acquisition and possession of such firearms is exceptionally allowed, where their handling is necessary for the purposes of deactivation or conversion or whenever permitted in cases provided for by this Directive. Neither should the Directive prevent the dealers and brokers from handling such firearms in cases not covered by this Directive, such as firearms to be exported outside the European Union or weapons to be acquired by the armed forces or the police.
- (8) In order to ***increase*** the traceability of all firearms and essential components ***and to facilitate their free movement, all essential components of a firearm should be marked with a clear, permanent and unique marking and registered in the data-filing systems of the Member States in accordance with Directive 91/477/EEC.***
- (8a) *The records held in the data-filing systems should contain all information allowing a firearm to be linked to its owner and should record the name of the manufacturer or brand, the country or place of manufacture, the type, make, model, and serial number of the firearm or any unique marking applied to the frame or receiver of the firearm. Essential components other than the frame or receiver should be recorded in the data-filing systems under the record relating to the firearm to which they are to be fitted.*
- (8b) *Firearms designed for military use, which are equipped to operate on the basis of selective fire, such as AK47, M16, where they may be manually adjusted between automatic and semi-automatic firing modes should fall within category A, therefore should not be available for civilians and if converted into semi-automatic firearms should fall within category A6.*
- (9) Some semi-automatic firearms can easily be converted to automatic firearms, thus posing a threat to security. Even in the absence of such conversion, certain semi-automatic firearms may be very dangerous when their capacity regarding the number of rounds is high. Therefore, semi-automatic firearms with a fixed loading device allowing to fire a high number of rounds, as well as semi-automatic firearms in combination with a removable loading device with a high number of rounds should be prohibited for civilian use. The mere possibility of fitting a loading device with the capacity over 10 rounds for long firearms and 20 rounds for short firearms does not determine the categorization of the firearm.

- (9a) Semi-automatic firearms which use rimfire percussion, including those with a calibre of .22 or smaller, should not fall within category A unless they have been converted from automatic firearms, without prejudice to renewal of authorisations in accordance with Directive 91/477/EEC.**
- (9b) The provisions of Directive 91/477/EEC relating to the European firearms pass as the main document needed for their respective activities by target shooters and other persons authorised in accordance with that Directive should be improved by inclusion in the relevant provisions thereof the reference to firearms classified in category A, without prejudice to Member States' right to choose to apply a more stringent regime.**
- (10) To prevent markings from being easily erased and to clarify on which components the marking should be affixed, common Union rules on marking should be introduced. Those rules should apply only to essential components that are manufactured or imported into the Union after [insert the date appearing in Article 2(1)], when they are placed on the market, while firearms and parts manufactured or imported into the Union before that date should remain covered by the marking and registration requirements under Directive 91/477/EC that are applicable until that date.**
- (11) In view of the dangerous nature and durability of firearms and essential components, in order to ensure that competent authorities are able to trace firearms for the purpose of administrative and criminal proceedings and in the light of national procedural laws it is necessary that the records in the data-filing system are kept for a period of 30 years after destruction of the firearms and essential components. Access to these records and all related personal data should be restricted to competent authorities and be permitted only up until ten years after destruction of the firearm concerned for the purposes of granting or withdrawing authorisations, including the possible impositions of administrative penalties, and up until 30 years after destruction where necessary for the enforcement of criminal law.**
- (11a) The efficient sharing of information between dealers and brokers and competent authorities is important for effective operation of the data-filing system. Dealers and brokers should therefore provide information without undue delay to the relevant competent authorities. To facilitate this, national competent authorities should establish a means of electronic connection accessible to dealers and brokers, which can include submission by email or directly through a database or other registry.**
- (12) This Directive should not affect Member States' rules which allow lawful transactions involving firearms, essential components and ammunition to be arranged by means of mail order, the internet or "distance contracts" within the meaning of point (7) of Article 2 of Directive 2011/83/EU of the European Parliament and of the Council, for example by way of online auction catalogues or classified advertisements, telephone or email. However, it is essential that the identities of parties to such transactions and their lawful ability to enter therein be verifiable and verified. Regarding purchasers, it is therefore appropriate to ensure that their identity and, where relevant, the fact of their authorisation to acquire a firearm be verified, at the latest upon delivery, by a licensed dealer or broker, or by a public authority or a representative of that authority.**

- (13) The risk of **acoustic** weapons and other types of blank firing weapons being converted **into** real firearms is high. It is therefore essential to address the problem of **such** converted firearms being used in criminal offences, **in particular** by including them in the scope of Directive **91/477/EEC**. Furthermore, **to avoid** the risk of alarm **and signal** weapons being **manufactured in a way that enables them to be converted to expel a shot, bullet or projectile by the action of a combustible propellant, technical specifications** should be adopted in order to ensure that they cannot be **so** converted.
- (13a) Objects, that have the physical appearance of a firearm ("replica"), but which 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.
- (13b) **Where Member States have national laws addressing antiques, these weapons are not subject to the requirements of the Directive. Reproductions of antique firearms do not however have the same historical importance or interest attached to them and may be constructed using modern techniques which can improve their durability and accuracy. As such, those reproduction firearms should be brought within the scope of the Directive and be subject to its provisions. Other items, such as airsoft devices, fall outside of the definition of a firearm and are not regulated elsewhere in the Directive, so the provisions of this Directive are not applicable.**
- (14) In order to improve the functioning of the information exchange between Member States, **it would be helpful if** the Commission **could** 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, **including the feasibility of enabling each Member State to access such a system**. The Commission's assessment **could** be accompanied, if appropriate, by a legislative proposal taking into account existing instruments regarding exchange of information. **This system may use a module of the Internal Market Information System ('IMI') established by Regulation (EU) No 1024/2012 specifically customised for firearms. Such exchange should take place in compliance with the rules on data protection laid down in Regulation (EU) 2016/679. In case the competent authority needs access to the criminal records of a person applying for an authorisation to carry a firearm, that authority should be able to obtain that information under Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States.**

- (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, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.⁴ In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and their experts should systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (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 Council⁵.
- (17) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.
- (17a) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data should apply to the processing of personal data in the framework of this Directive. Where personal data collected further to this Directive are processed for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, the authorities processing these data should comply with rules adopted further to Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data.

⁴ OJ L 123, 12.5.2016, p. 1.

⁵ 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).

- (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.
- (20) As regards Iceland and Norway, this Directive and Council Directive 91/477/EEC constitute a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* which fall within Article 1 of Council Decision 1999/437/EC.
- (21) (...)
- (22) As regards Switzerland, this Directive and Council Directive 91/477/EEC constitute a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* which fall within Article 1 of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC.
- (23) (...)
- (24) As regards Liechtenstein, this Directive and Council Directive 91/477/EEC constitute a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* which fall within Article 1 of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 91/477/EEC is amended as follows:

(1) Article 1 is amended as follows:

(-aa) Paragraph 1a is deleted.

(aa) Paragraph 1b is replaced by the following:

"1b. For the purposes of this Directive, "essential component" means (...) the barrel, (...), frame, the receiver, including both upper and lower receivers, where **applicable**, slide, (...) cylinder, bolt or breech block (...) which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted.

(b) Paragraph 1e is replaced by the following:

"1e. For the purposes of this Directive, "broker" means any natural or legal person (...), **other than a dealer, whose trade or business** consists wholly or partly in:

(a) the negotiation or arrangement of transactions for (...) the purchase, sale or supply of firearms, essential components (...) or ammunition, or

(b) arranging the transfer thereof within a Member State, from one Member State to another Member State, from a Member State to a third country or from a third country to a Member State (...)."

(c) In Article 1, the following paragraphs are added:

"1f. For the purposes of this Directive, "alarm and signal weapons" means (...) devices with a cartridge holder (...) designed to only fire blanks, irritants, other active substances or pyrotechnic signalling rounds and which are not capable of being converted to expel a shot, bullet or projectile by the action of a combustible propellant. (...)

1g. For the purposes of this Directive, "salute and acoustic weapons" 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 re-enactments, parades, sporting events and training. (...)

- 1h. (...);
- 1i. For the purposes of this Directive, "deactivated firearms" means firearms that have been **rendered permanently unfit for use by deactivation, ensuring** that all essential components of the firearm **in question** have been rendered permanently inoperable and incapable of removal, replacement or modification in a manner that would permit the firearm to be reactivated in any way. (...)"
- 1j. For the purposes of this Directive, "museum" means a permanent institution in the service of society and its development, open to the public, which acquires, conserves, researches and exhibits firearms, essential components thereof and ammunition for **historical, cultural, scientific, technical, educational, heritage or recreational purposes, and recognised as such by the Member State concerned.**
- 1k. For the purposes of this Directive, "collector" means any legal or natural person dedicated to the gathering and conservation of firearms **or ammunition for historical, cultural, scientific, technical, educational or heritage purposes, (...) and recognised as such by the Member State concerned.**

(cc) Paragraph 2b is replaced by the following:

"For the purposes of this Directive, "illicit trafficking" (...) means the acquisition, sale, delivery, movement (...) or transfer of firearms, their essential components 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 **firearms, essential components or ammunition is not marked in accordance with Article 4.**"

(c) 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, **modification** or conversion of firearms **or** essential components; or
 - (ii) the manufacture, trade, exchange, **modification** (...) or conversion of ammunition."

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 or her 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 or broker. If a person's address does not appear on his or her passport or identity card, his or her country of residence shall be determined on the basis of any other official proof of residence recognised by the Member State concerned.*

(2) Article 2 is replaced by the following:

- "1. This Directive is without prejudice to the application of national provisions concerning the carrying of weapons, hunting or target shooting, using weapons lawfully acquired and possessed in accordance with this Directive.
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 (...) as regulated by Directive 2009/43/EC⁶."

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

"1. With respect to the firearms manufactured or imported into the Union after [insert date of Article 2(1)], Member States shall ensure that any **firearm or** essential component of a firearm placed on the market has been:

(a) provided with a unique marking, which is clear and permanent, without delay after manufacture **and at the latest before the placement on the market,** or **without delay after** import to the Union and

(b) (...) registered in compliance with this Directive without delay after manufacture **and at the latest before the placement on the market,** or **without delay after** import to the Union.

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

⁶ 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.

2. (...) **The** unique marking **referred to in paragraph 1 shall include** the name of the manufacturer **or brand**, the country or place of manufacture, (...) the serial number, and the year of manufacture, if not already part of the serial number **and the model where feasible**. This shall be without prejudice to the affixing of the manufacturer's trademark. Where **an** essential component is too small to be **marked in compliance with this Directive, it shall be marked** at least **with** a serial number, **alphanumeric or digital code**.

The marking requirements for a firearm **or essential components** that **are of** particular historical importance shall be determined **in accordance with** national law.

(...)

(...)

Member States shall ensure that each elementary package of complete ammunition is marked **in such a way** as to **indicate** 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 **for the** Reciprocal Recognition of Proof **M**arks on Small Arms of 1 July 1969.

Furthermore, Member States shall ensure, at the time of transfer of a firearm **or essential components of a firearm** from government stocks to permanent civilian use, the unique marking, **as provided under paragraph 1**, permitting identification of the transferring entity.

3. (...)

Member States shall establish a system for the regulation of the activities of dealers and brokers. Such a system **shall** include **at least** the following measures:

- (a) registration of brokers and dealers operating within **their** territory;
- (b) licensing or authorisation of the activities of dealers and brokers **within their territory**;
- (c) a check of (...) the private and professional integrity and of the abilities of the dealer or broker concerned. In the case of a legal person, the check shall be on the legal person and on the person who directs the undertaking.

(4) In Article 4, paragraph 4 is amended as follows:

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

"This data-filing system shall record ***all information relating to firearms which is needed in order to trace and identify those firearms, including:***

- the type, make, model, calibre ***and serial number of each firearm and the mark applied to its frame or receiver as a unique marking in accordance with paragraph 1, which shall serve as the unique identifier of each firearm,***
- ***the serial number or unique marking applied to the essential components, where this differs from the marking on the frame or receiver of each firearm,***
- the names and addresses of the suppliers and of the persons acquiring or possessing the firearm, ***along with dates*** thereof.
- ***any conversions or modifications to a firearm leading to a change in its category or subcategory, including its certified deactivation or destruction and the dates thereof.***

Member States shall ensure that the record of firearms and the essential components thereof, including the related personal data, be retained ***in the data-filing system*** by the competent authorities for a period of 30 years after destruction of the firearms and essential components.

These records and the related personal data shall be accessible:

- by the authorities competent for the purpose of granting or withdrawing authorisations referred to in Article 7 or ***by the authorities competent for customs proceedings*** until 10 years after destruction of the firearm or the essential components, and
- by the authorities competent for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties until 30 years after destruction of the firearm or the essential components.

Member States shall ensure that the personal data are deleted ***from the data-filing system*** upon expiry of the periods specified in the above paragraph. This *is* without prejudice to cases where specific personal data have been transferred to an authority competent for the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties and are used in this specific context ***or to other authorities for a compatible purpose provided for by national law. In these cases the processing of such data by the competent authorities shall be regulated by the national law of the Member States, in full compliance with Union law, in particular on data protection.***

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

"Throughout their period of activity, dealers and brokers shall be required to maintain a register in which each firearm and each essential component of a firearm subject to this Directive and which are received or disposed of by them shall be recorded, together with such particulars as enable the firearm or essential components (...) 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 their activities, dealers and brokers shall deliver that register to the national authority responsible for the filing system provided for in the first subparagraph.

(...)

Dealers and brokers established in their territory shall report without undue delay transactions involving firearms or essential components to the national competent authority. Member States shall ensure that dealers and brokers have an electronic connection to the relevant national authorities for such reporting purposes and for the updating of the data filing system immediately upon receipt of information concerning such transactions.

- (4a) Article 4a is amended as follows:

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 category C (...), who are specifically permitted to acquire and possess such firearms in accordance with national law.

- (5) Article 4b is deleted.

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

"Article 5

1. Without prejudice to Article 3, Member States shall **permit** 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 licensed or otherwise approved training centre, **and either the parent or an adult with a valid firearms or hunting licence assumes responsibility for storage pursuant to Article 5a; and**
 - (b)** are not likely to be a danger to themselves **or others**, to public order or to public safety; having been convicted of a violent intentional crime shall be considered as indicative of such danger.
 - (c)** (...)
2. Member States shall **have a monitoring system, which they may operate on a continuous or non-continuous basis, to ensure the conditions of authorisation set by national law are met for the duration of the authorisation and, inter alia, relevant medical and psychological information is assessed. The specific arrangements shall be determined in accordance with national law. Where any of those conditions are no longer met, Member States shall withdraw the respective authorisation.**

Member States **may** 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.
3. Member States shall ensure that an authorisation to acquire and an authorisation to possess a firearm classified in category (...) B of Annex I shall be withdrawn if the person who was granted the authorisation is found to be in the possession of a loading device **apt to be fitted to centre-fire semi-automatic firearms or repeating firearms with one of the following characteristics:**
 - a)** **loading devices which can hold more than 20 rounds;**
 - b)** **loading devices for long firearms which can hold more than 10 rounds, unless that person was granted an authorisation under Article 6 or Article 7(4a).**

Article 5a

Member States shall establish rules on the proper supervision of firearms and ammunition and rules on their proper storage in a secure way to minimise the risk of their being accessed by an unauthorised person. Firearms and ammunition for them shall not be readily accessible together. Supervision in such cases shall mean that the person possessing the firearm or the ammunition has control over it during transport and use. The level of scrutiny for the storage arrangements shall correspond to the category of the firearm concerned.

Article 5b

Member States shall ensure that, *in cases involving* the acquisition and selling of firearms and their essential components and ammunition *classified* in categories A, B and C set out in Annex I by means of "distance *contracts*" *within the meaning of point (7) of* Article 2 of Directive 2011/83/EU of the European Parliament and of the Council(*), the identity, and where required, the authorisation of the person acquiring the firearm or the essential components thereof or ammunition is checked prior to, or at the latest upon, delivery thereof to that person, by:

- (a) an authorised dealer or broker; or
- (b) a public authority or a representative thereof.

* *Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64)*

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, the essential components thereof and **the** ammunition listed in category A in Annex I. They shall ensure that those firearms, essential components and ammunition unlawfully held in contravention of that prohibition are seized.
2. For the protection of the security of critical infrastructure, commercial shipping, high-value convoys **and sensitive premises**, as well as for national defence, educational, cultural, research and historical purposes and without prejudice to paragraph 1, the competent authorities may grant in individual (...) cases, **exceptionally and duly reasoned**, authorisations for such firearms, essential components and ammunition where this is not contrary to public security or public order.
- 2a. **Member States may choose to grant in individual special cases, exceptionally and duly reasoned, authorisations to collectors to acquire and possess firearms, essential components thereof and ammunition from category A subject to strict conditions on security, including demonstration to the competent national authorities that measures are in place to address any risks to public security or public order and that the firearms, essential components or ammunition concerned are stored with a level of security proportionate to the risks associated with unauthorised access to such items.**

Member States shall ensure that those collectors authorised under the first subparagraph are identifiable within the data-filing system referred to in Article 4. Such authorised collectors shall be required to maintain a register of all firearms in their possession classified in Category A, which shall be accessible to the competent national authorities. Member States shall establish an appropriate monitoring system with respect to such authorised collectors, taking all relevant factors into account.
3. Member States may authorise dealers or brokers, in their respective professional capacities, as defined under this Directive to acquire, manufacture, deactivate, repair, supply, transfer and possess firearms, essential components thereof and ammunition from category A subject to strict conditions on security.
- 3a. Member States may authorise museums to acquire and possess firearms, essential components thereof and ammunition from category A and B subject to strict conditions on security.

- 3b. (...)
- 3c. Member States may authorise target shooters to acquire and possess semi-automatic firearms classified in categories A.6 and A.7 of Annex I, subject to the following conditions:
- a) a satisfactory (...) assessment **of relevant information arising from the application of provisions set out in Article 5(2)**;
 - b) provision of proof that the target shooter is **actively practising for or** participating in shooting competitions recognised by an official shooting sport organisation of that Member State or by an internationally established and officially recognised shooting sport federation; and
 - c) **a certificate from an officially recognized shooting sport organisation confirming that:**
 - i. **the target shooter is a member of a shooting club and, has been regularly practising target shooting in it for at least twelve months, and**
 - ii. the firearm **fulfils the specifications required** for a shooting discipline recognised by an internationally established and officially recognised shooting sport federation.
 - d) **As regards firearms classified in category A6, Member States applying a military system based on general conscription and having in place over the last fifty years a system of transfer of military firearms to persons leaving the army after fulfilling their military duties may grant an authorisation to such persons in their quality as target shooter, to keep one firearm used during the mandatory military period. These firearms shall be transformed into semi-automatic firearms by the public authority which shall periodically check that the persons using such firearms do not represent a risk for public security. The provisions under a), b) and c) shall apply.**
- 3d. **Authorisations under this Article shall be reviewed periodically at intervals not exceeding five years.**

(7) (...)

(7a) In Article 7, the following subparagraph is added to paragraph 4, after point c):

"The (...) authorisation for possession of a firearm shall be reviewed periodically, at intervals not exceeding five years. The authorisation may be renewed or prolonged 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 *decide to confirm* authorisations *for semi-automatic* firearms classified *in point 6, 7 or 8 of category A* for a firearm which was classified in category B set out in Annex I of the Directive, as amended by Directive 2008/51/EC, *and legally acquired and registered before [date of entry into force], and to renew or prolong those authorisations, subject to the other conditions laid down in this Directive, and may also allow such firearms to be acquired by other persons authorised by Member States in accordance with this amending Directive.*"

(7bb) Article 8, paragraph 3 is amended as follows:

"If a Member State prohibits or makes subject to authorisation the acquisition and possession within its territory of a firearm classified in category B or C (...), it shall 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)."

(7c) Article 10 is replaced by the following:

1. 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.

The acquisition of loading devices for semi-automatic centre-fire firearms which can hold more than 20 rounds or more than 10 rounds for long firearms shall only be permitted for those persons who are granted an authorisation under Article 6 or Article 7(4a).

2. *Brokers and dealers may refuse to complete any transaction for the acquisition of complete rounds of ammunition, or components of ammunition, which they reasonably consider suspicious owing to its nature or scale and shall report any such attempted transaction to the competent authorities.*

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

"Article 10a

1. Member States shall take measures to ensure that **devices with a cartridge holder designed to only fire blanks, irritants, other active substances or pyrotechnic signalling rounds (...) are not capable of being converted to expel a shot, bullet or projectile by the action of a combustible propellant.**
2. **Member States shall classify as firearms devices with a cartridge holder designed to only fire blanks, irritants, other active substances or pyrotechnic signalling rounds which are capable of being converted to expel a shot, bullet or projectile by the action of a combustible propellant.**
3. The Commission shall adopt technical specifications for alarm and signal weapons **manufactured or imported into the Union on or after [insert date of Article 2(1)]** to ensure they cannot be converted **to expel a shot, bullet or projectile by the action of a combustible propellant. The Commission shall adopt the first such implementing act by [insert date of Article 2(1)].**

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

(...)

Article 10b

- 1.** 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 **all its essential components permanently inoperable and incapable of removal, replacement or modification in a manner that would permit the firearm to be reactivated in any way.** Member States shall, in the context of **that** verification, provide for the issuance of a certificate **and** record attesting to the deactivation of the firearm **and** the apposition of a clearly visible mark to that effect on the firearm.
2. The Commission shall adopt deactivation standards and techniques to ensure that **all essential components of a firearm are rendered permanently inoperable and incapable of removal, replacement or modification in a manner that would permit the firearm to be reactivated in any way.** Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13b(2).

3. Those implementing acts shall not apply to firearms deactivated prior to their date of application, unless those firearms are transferred to another Member State or placed on the market subsequent to that date.
4. Member States may notify to the Commission within two months [after the entry into force of this directive] their national standards and techniques applied before 8 April 2016 and justify for which reasons those national standards and techniques are equivalent to the ones set out in Commission implementing regulation EU 2015/2403 as applicable on 8 April 2016.
5. When Member States notify in accordance with paragraph 4, the Commission shall, at the latest 12 months after notification, adopt implementing acts deciding whether those national standards and techniques ensured that firearms were deactivated with a level of security equivalent to the standards and techniques set out in Commission Implementing Regulation EU 2015/2403 as applicable on 8 April 2016. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13b(2).
6. Until the date of application of those implementing acts, any firearm deactivated in accordance with national standards and techniques applied before 8 April 2016 placed on the market or transferred to another Member State shall comply with the standards and techniques set out in Commission Implementing Regulation EU 2015/2403.
7. Firearms deactivated in accordance with national standards and techniques before 8 April 2016 that have been found to be equivalent to the standards and techniques set out in Commission Implementing Regulation EU 2015/2403 as applicable on 8 April 2016 shall be considered to be deactivated firearms also where they are transferred to another Member State or placed on the market after the date of application of those implementing acts.

(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 sale by means of 'distance contracts' within the meaning of point (7) of Article 2 of Directive 2011/83/EU of the European Parliament and of the Council.

(9a) In Article 12(2), the first subparagraph is replaced by the following:

Notwithstanding paragraph 1, hunters **and historical re-enactors**, in respect of category C and target shooters, in respect of categories B and C and **firearms of category A for which an authorisation has been granted exceptionally under Article 6(3c) or for which the authorisation has been renewed under Article 7(4a)**, 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, target shooting or **historical re-enactment** activities in the Member State of destination.

(9b) In Article 12(2), the third subparagraph is replaced by the following:

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. Member States may also refuse the application of this derogation in the case of prohibited firearms for which an exceptional authorisation has been granted under Article 6(3c) or for which the authorisation has been renewed under Article 7(4a).

(10) In Article 13, the following paragraphs 4 and 5 are added:

- "4. The competent authorities of the Member States shall exchange **by electronic means** information on the authorisations granted for the transfer of firearms to another Member State **and** information with regard to refusals to grant authorisations as defined in Article 7 **on grounds of security or relating to reliability of the person concerned**.
5. The Commission shall provide for a system for the exchange of information mentioned in this Article. The Commission shall adopt and bring into force by the date referred to in Article 2, paragraph 1 delegated acts in accordance with Article 13a **therefor and concerning the detailed arrangements for the systematic** exchange of information **by electronic means**."

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

"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 power to adopt delegated acts referred to in Article 13(5) shall be conferred on the Commission for an indeterminate period of time from [the date of entry into force of this amending Directive].
3. The delegation of power referred to in Article 13(5) may be revoked at any time by the European Parliament or by the Council. A decision to revoke 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.
- 3a. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
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(5) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **two** 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 **two** months at the initiative of the European Parliament or of the Council.

(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.

(* 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 every five years submit to the European Parliament and the Council a report on the application of this Directive, including a fitness check of its provisions, accompanied, if appropriate, by proposals concerning, in particular, the categories of firearms in Annex I and issues related to the implementation of the system for the European firearms pass, to marking and to new technologies such as impacts of 3D printing, the use of QR code and the use of Radio Frequency Identification (RFID). The first such report shall be submitted by ... [two years after *insert date of Art 2(1)*]."

(14) (...) Annex I to Directive 91/477/EC (...) part II is amended as follows:

(-a) the introductory part is replaced by the following:

"For the purposes of this Directive, firearms are classified in the following categories:

(a) point A is amended as follows:

(-i) the introductory part is deleted;

(i) In Category A, the following points are added:

"6. Automatic firearms which have been converted into semi-automatic firearms.
without prejudice to Article 7(4a);

7. Any of the following ***semi-automatic centre-fire*** firearms:

a) short firearms which allow the firing of more than 21 rounds without reloading, if a loading device with a capacity exceeding 20 rounds is part of the firearm or ***a detachable loading device with a capacity exceeding 20 rounds*** is inserted into it;

b) long firearms which allow the firing of more than 11 rounds without reloading, if a loading device with a capacity exceeding 10 rounds is part of the firearm or ***a detachable loading device with a capacity exceeding 10 rounds*** is inserted into it;

8. Semi-automatic long firearms (i.e. firearms that are originally intended to be fired from the shoulder) that can be reduced to a length of less than 60cm without losing functionality by means of a folding or telescoping stock or by a stock that can be removed without using tools.

8a. Any firearm classified in this category after it has been converted to firing blanks, irritants, other active substances or pyrotechnic rounds or into a salute or acoustic weapon.

(a)

(ii) in category B — Firearms subject to authorization

1. (...) 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 loading device and chamber can together hold more than three rounds in the case of rimfire firearms and more than three but fewer than twelve rounds in the case of centrefire firearms.

4a. Semi-automatic short firearms other than those listed under point 7 a) of category A.

5. Semi-automatic long firearms whose loading device 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 loading device and chamber can together hold more than three rounds listed under point 7 b) of category A.
6. Repeating and semi-automatic long firearms with smooth-bore barrels not exceeding 60 cm in length.

6c. Any firearm classified in this category after it has been converted to firing blanks, irritants, other active substances or pyrotechnic rounds or into a salute or acoustic weapon.

7. Semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms other than those listed under point 6, 7 or 8 of category A.

(iii) in category C — Firearms and weapons 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 listed in category A or B.
4. Single-shot short firearms with rimfire percussion whose overall length is not less than 28 cm.

5. (...) Any firearm classified in this category after it has been converted to firing blanks, irritants, other active substances or pyrotechnic rounds or into a salute or acoustic weapon;
6. Firearms from categories A, B and C that have been deactivated in accordance with Regulation (EU) 2015/2403 on deactivation.
7. Single-shot long firearms with smooth-bore barrels, placed on the market after the date by which Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with other provisions of this Directive than the ones in Article 4(3) and Article 4(4).

(...) category D and the text contained therein are deleted.

(b) (...) point B and the (...) text thereof are deleted.

(...):"

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

"are regarded as antique weapons where these have not been included in the previous categories and are subject to national laws."

(d) the second subparagraph is deleted

(16) in Annex II, point (f) is replaced by the following:

“(f) the statements:

‘The right to travel to another Member State with one or more of the firearms in categories A, B or C 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 category C with a view to engaging in hunting or historical re-enactment activities or with a firearm in categories A, B or C 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 or C 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 [**15** months after **the date of entry into force of this Amending Directive**]. They shall forthwith communicate to the Commission the text of those **measures**.
2. **By way of derogation, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive 30 months after publication in the OJ] as regards Article 4(3) and Article 4(4) of this Directive. They shall forthwith communicate to the Commission the text of those provisions.**
3. When Member States adopt those provisions **under paragraph 1 and 2**, 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.
4. **(...)**

5. Notwithstanding paragraph 1, Member States may, regarding firearms acquired before [the date referred to in Article 2(1)] suspend the requirement to declare firearms listed under categories C.5 and C.6 and C.7 of Annex I to this Directive until [transposition deadline + 30 months].
6. 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
