



Council of the
European Union

Brussels, 20 April 2016
(OR. en)

5662/2/16
REV 2

LIMITE

GENVAL 13
JAI 66
MI 42
COMPET 27
COMIX 59
CODEC 92

Interinstitutional File:
2015/0269 (COD)

COVER NOTE

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

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.

4. 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. The GENVAL Working Party again discussed the proposal on 11 April 2016.
5. Subsequently, the current revised version of the draft Directive set out in the Annex takes into account the discussions both at Council level and within the Working Party. Changes are underlined compared to the initial Commission proposal; changes to the previous version of the revised text, discussed by GENVAL on 11 April 2016, are marked in **bold and underlined**.
6. Member States are invited to consider the current version of the text in view of the next meeting of the Genval Working Party. With a view to achieving progress on crucial articles of the Directive and a general approach by June, 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.

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
weapons³

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 114⁴ 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/EEC⁵ 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.

¹ With participation of the associated countries.

² Text with EPA relevance.

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

⁴ AT: check whether legal basis covers sufficiently internal security concerns.

⁵ 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) (...)⁶.
- (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 **seizure** of those firearms.
- (7b) **Member States should, however, have the possibility to authorise the acquisition and the possession of prohibited firearms when necessary for educational, cultural, research and historical purposes. Member States should also be allowed to authorise civilians to acquire and possess otherwise prohibited firearms for national defence, such as in the context of voluntary military training provided under Member State law.**
- (8) In order to ensure the traceability of (...) **all** firearms **covered by this Directive**, 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, **originally constructed for military use**, 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 **indefinite period (...)** until **deactivation** 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 (...).

⁶ Deleted as this is now implicitly covered by recital 7a.

- (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.
- (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.⁷
- (13 b) **Firearms and ammunition should be stored in a secure manner when not immediately supervised. If the storage is done otherwise than in a safe, firearms and ammunition should be stored separately. Criteria for safe storage should be defined by national rules.**
- (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 Council⁸.
- (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) **The General Data Protection Regulation Regulation (GDPR) on the processing of personal data and on the free movement of such data**⁹ **applies to the treatment of personal data.**

⁷ Suggestion to delete recital: CH

⁸ 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).

⁹ Regulation of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC

- (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 constitutes 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) An arrangement should be made to allow representatives of Iceland and Norway to be associated with the work of committees assisting the Commission in the exercise of its executive powers. Such an arrangement has been contemplated in the Agreement in the form of Exchanges of Letters between the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning committees which assist the European Commission in the exercise of its executive powers, annexed to the Agreement referred to in recital 20¹⁰
- (22) As regards Switzerland, this directive constitutes 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) An arrangement should be made to allow representatives of Switzerland to be associated with the work of committees assisting the Commission in the exercise of its executive powers. Such an arrangement has been contemplated in the Agreement in the form of an Exchange of Letters between the Council of the European Union and the Swiss Confederation on the committees that assist the European Commission in the exercise of its executive powers, annexed to the Agreement referred to in recital 22¹¹.
- (24) As regards Liechtenstein, this directive constitutes 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.

¹⁰ Insert the number of the recital where the Agreement with Iceland and Norway on their association with the Schengen *acquis* is cited.

¹¹ Insert the number of the recital where the Agreement with Switzerland on its association with the Schengen *acquis* is cited.

HAVE ADOPTED THIS DIRECTIVE:

Article 1¹²

Directive 91/477/EEC is amended as follows:

(1) Article 1¹³ is amended as follows:

(a) Paragraph 1a is deleted¹⁴.

(aa) Paragraph 1b¹⁵ is replaced by the following:

"1b. For the purposes of this Directive, "essential component" means (...) ¹⁶ the barrel, (...) frame, receiver¹⁷, slide or cylinder, bolt or breech block¹⁸ which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted. (...) ¹⁹

(b) Paragraph 1e²⁰ is replaced by the following:

"1e. For the purposes of this Directive, "broker²¹" means: any natural or legal person; or partnership resident or established in a Member State (...) who carries out services (...) consisting wholly or in part in (...) the negotiation or arrangement of transactions for (...) **the purchase, sale or supply of firearms, essential components thereof or ammunition** or arranging the transfer **thereof** within a Member State, from one Member State to another Member State, from a Member State²² to a third country or from a third country to a Member State^{23 24} (...).."

¹² The Presidency is still reflecting on introducing definitions for collectors and bodies concerned as well as for antique weapons.

¹³ DE : definition of firearms should be clarified to the effect that the term "combustible propellant" covers "primers" as well; Flobert guns/ gallery guns would then be covered by Directive

¹⁴ As only essential components are subject to obligations under this Directive, there is no need for a definition of 'parts'.

¹⁵ 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.

¹⁶ 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.

¹⁷ CZ, UK delegation stated the need to clarify the definitions of "essential components" and "parts".

¹⁸ DE requested further defining: upper and lower receiver. PL: deletion

¹⁹ Suggested by FR.

²⁰ Deletion suggested by BG, EE, ES, FR, IT, LU, PL, RO, SK SI, UK, CH.

²¹ Definition of "broker" should be under paragraph 2.

²² 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.

²³ Suggested by DE.

²⁴ Suggested by DE; UK: third country aspects should be covered by Regulation 258/2012.

Addition suggested by FI: "or, when the broker is established in the EU, between third countries,..."

(c) In paragraph 1, the following paragraphs are added²⁵:

- 1f. For the purposes of this Directive, "alarm and signal weapons"²⁶ means (...) devices with a cartridge holder (...) designed to fire only blanks, irritants, other active substances or pyrotechnic ammunition. (...)²⁸
- 1g. For the purposes of this Directive, "salute and acoustic weapons"²⁹ 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. (...)³⁰
- 1h. (...)
- 1i. For the purposes of this Directive, "deactivated firearms" means firearms that have been deactivated (...)³¹ in accordance with³² Commission Implementing Regulation (EU) 2015/2403 (...)³³
- 1j. **For the purposes of this Directive, "museum" means permanent institutions 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 the purpose of education, study and enjoyment.**

(cc) **Paragraph 1.2b is replaced by the following:**³⁴

"For the purposes of this Directive, "illicit trafficking" shall mean the acquisition, sale, delivery, movement, import, export 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 assembled firearms are not marked in accordance with Article 4(1).

²⁵ IE: add definition of gas weapons.

²⁶ Distinctive definitions requested by CY, SK.

²⁷ Deletion suggested by FR.

²⁸ Deletion suggested by BG, AT, IT, ES, PT, CH, EE

²⁹ Distinctive definition requested,; IT: replace by "scenic weapons".

³⁰ Deletion suggested by BG, AT, IT, ES, PT, CH, EE

³¹ Deletion suggested by DE.

³² Suggested by DE, CZ.

³³ 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.

³⁴ Addition suggested by FR

- (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 (...) ³⁵ of firearms ³⁶; or
 - (ii) the manufacture, trade, exchange (...) ³⁷ o conversion of ammunition."
- (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 authorities³⁸. Neither shall it apply to commercial transfers (...) ³⁹ as regulated by Directive 2009/43/EC^{40 41}."
- (3) In Article 4, paragraphs 1, 2 and 3 are replaced by the following:
- "1⁴². Member States shall ensure that any firearm or ⁴³ essential component thereof⁴⁴ :
placed on the market⁴⁵ has been :
- (i) provided with a unique marking, which is clear and permanent⁴⁶ , **without delay after manufacture or import to the Union**⁴⁷ and
 - (ii) (...) registered in compliance with this Directive without delay after manufacture or import to the Union⁴⁸.
- 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).⁴⁹

³⁵ Deletion suggested by CZ, supported by DE, UK and CH.

³⁶ Suggested by FR, rewording suggested by UK.

³⁷ Deletion suggested by FR CH

³⁸ Suggestion by FI "...armed forces and law enforcement authorities."

³⁹ Deletion suggested by FR.

⁴⁰ 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.

⁴¹ Suggested by FR, CZ.

⁴² 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 ..."

⁴³ IT: "and essential components".

⁴⁴ Suggested by PL, FI, ES, PT, SK.

⁴⁵ FI raised the attention that there should be a possibility to mark a firearm directly after it is being imported to the EU.

⁴⁶ Suggested by ES, FR; IT "in an indelible way"; DE: "clearly and permanently marked according to the state of the art".

⁴⁷ Addition suggested by DE

⁴⁸ Addition suggested by DE.

⁴⁹ Addition suggested by FR.

- 2⁵⁰. For the purposes of identifying and tracing each (...) ⁵¹ firearm and its essential components ⁵², Member States shall, without delay (...) after manufacture ⁵³ or (...) import to the Union ⁵⁴ (...), require a unique marking ⁵⁴ including the name of the manufacturer, the country or place of manufacture, the brand, the model (...) 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. **Where the essential component is too small to be practicably marked with all of this information, at least a serial number shall be marked on it.**

The marking requirements of firearms produced before [1946] may be subject to considerations of the historical value they represent

(...)

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 **choose to apply** ⁵⁵ the provisions of the Convention on Reciprocal Recognition of Proofmarks on Small Arms of 1 July 1969 ⁵⁶.

Furthermore, Member States shall ensure, at the time of transfer of a firearm from government stocks to permanent civilian use, the appropriate ⁵⁷ unique marking permitting identification of the transferring entity.

3. (...) ⁵⁸

(4) ⁵⁹In Article 4, paragraph 4 ⁶⁰ is amended as follows:

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

"This filing system shall record:

⁵⁰ HU, FI specified that if the firearms is imported the year of import should be marked before it is placed on the market.

⁵¹ Deleted at the suggestion of DE.

⁵² Suggested by ES.

⁵³ Wording suggested by DE.

⁵⁴ Concerns about loss of value of historical firearms, concerns about feasibility of full size marking from IT, MT, SK.

⁵⁵ Suggested by CZ

⁵⁶ 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.

⁵⁷ Suggested by FI.

⁵⁸ Moved to Article 4b.

⁵⁹ FR suggested a merge with 4b.

⁶⁰ FR rewording see 5342/3/16 REV 3.

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

- the names and addresses of the suppliers and of the persons acquiring or possessing the firearm or the essential components thereof.

The record of firearms (...) ⁶¹; and the essential components thereof shall be maintained for an indefinite ⁶²period⁶³. **Personal data is to be kept in accordance with applicable data protection legislation.**"

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

"Throughout their period of activity, dealers⁶⁴ and brokers shall be required to maintain a register⁶⁵ 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 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.

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."⁶⁶

⁶¹ Deletion suggested by DE, FI, UK, CH.

⁶² Specification of period needed : CH LU;

⁶³ 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;"

⁶⁴ Covers manufacturers according to its definition.

⁶⁵ UK agrees, doubts CH; IT: distinguish between content of dealer's and broker's register, latter should be about "carried out operations".

⁶⁶ AT: deletion of para suggested, otherwise tranposition period of 36 months needed

- (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 least⁶⁷ the following measures:
 - (a) registration of dealers and brokers⁶⁸ operating within the territory of each Member State; and
 - (b) licensing or authorisation of the activities of dealers and brokers within their territory.

2⁶⁹. 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 firearms⁷⁰ 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;⁷¹
 - (b) are not likely to be a danger to themselves⁷², to public order or to public safety; having been convicted of a violent intentional crime shall be considered as indicative of such danger.
 - (c) (...)

⁶⁷ ES specified that measures should be cumulative.

⁶⁸ UK: concerns about requirements to be placed on brokers: no need for brokers to be on a pre-approved register.

⁶⁹ FR suggested the addition of the obligation for manufacturers and dealers to have secure facilities to store the firearms they hold.

⁷⁰ IE: clarify that it only refers to Cat B and not to Cat C, D firearms.

⁷¹ Reinstated after Council discussion.

⁷² Addition by FI "or others,...".

2. Member States may⁷³ make the issuance or renewal of the authorisations referred to in paragraph 1 subject to (...) medical, including psychological, review.-⁷⁴

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 6⁷⁵

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 seized⁷⁶.

2.⁷⁷ 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.⁷⁸

3. Member States may authorise museums to acquire firearms, essential components and ammunition from category A, B, C and D subject to strict conditions.

4. Member States shall ensure that in case of the acquisition and selling⁷⁹ of firearms and their essential components and ammunition covered by categories A, B, C [and D⁸⁰] set out in Annex I by means of distance communication⁸¹, as defined in Article 2 of Directive 2011/83/EC 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 controlled prior to or at least upon delivery thereof to that person, by:

⁷³ IT: reinstate shall

⁷⁴ DE suggestion to add: "Where there are factual indications that a person is not or no longer fit to possess firearms, Member States shall require the person in question to obtain, at his or her own expense, a certificate of physical or mental aptitude from a public health officer, specialist or psychologist."

⁷⁵ HU scrutiny reservation

⁷⁶ Up to Member States what to do with such firearms: EE.

⁷⁷ EE suggested harmonised wording as to "public security, public order, public safety" throughout the text, see 5.1.a

⁷⁸ 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.

⁷⁹ Suggested by LT, CH, FR.

⁸⁰ Suggested by CZ, HR, FR.

⁸¹ Delegations requested more clarity regarding this prohibition as well as an alternative BG, DE, EE, HR, FI, SE, UK.

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

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

(**) Directive **2011/83/EC** 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 **304/64**, **22.11.2011**, p.19)."

(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 **target shooting**."⁸²

(7a) In Article 7⁸³, 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 years⁸⁴. 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 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/EC⁸⁵, 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 10a⁸⁶

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 shall remain in the category set out in Annex 1, Part II, corresponding to the firearm from which they were converted.**

3. **Alarm and signal weapons that do not fulfill the technical specifications of Article 10a(1) shall be classified in category A⁸⁷, B or C of Annex 1, part II.**⁸⁸

⁸² Deletion suggested by CZ, EE

⁸³ 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."

⁸⁴ 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).

⁸⁵ 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.

Article 10 aa

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. **Firearms and ammunition for them shall not be readily accessible together.** Supervision in this case shall mean that the person possessing the firearm or the ammunition has (...) ⁸⁹ control over them **during transport and use.** The level of scrutiny for the storage arrangements shall correspond to the category of the firearm ⁹⁰.

(...) ⁹¹

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 ⁹² record attesting to the deactivation of the firearm and ⁹³ 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)."

⁸⁷ Addition suggested by FR
⁸⁸ Addition suggested by FR.
⁸⁹ CY, FI: delete reference to immediate control;
⁹⁰ Addition suggested by FI; firearm "in question".
⁹¹ Considered as a matter of subsidiarity and deletion suggested by PL and UK.
⁹² FR, BG, ES and confirmed by COM.
⁹³ 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 selling⁹⁴ or selling by means of distance communication⁹⁵, as defined in Article 2 of Directive 2011/83/EC of the European Parliament and of the Council.

- (10) In Article 13, the following paragraphs 4 and 5 are added⁹⁶:

- "4. The competent authorities of the Member States shall exchange by electronic means⁹⁷⁹⁸ 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 7.⁹⁹
5. The Commission **shall provide for a comprehensive tracing system for firearms.** **It shall** be empowered to adopt 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:

⁹⁴ Suggested by LT, CH, FR.

⁹⁵ Delegations requested more clarity regarding this prohibition as well as an alternative BG, DE, EE, HR, FI, SE, UK.

⁹⁶ Deletion suggested by CH since cross-border significance of information exchanged is limited.

⁹⁷ Supported by DE, IT, FI, SE, UK, FR.

⁹⁸ Rewording suggested by FR:

"13.4. The competent authorities of the Member States exchange by electronic means information on 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."

⁹⁹ LT : COM should establish EU central database.

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"¹⁰⁰

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."

¹⁰⁰

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.

(*) 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 use of QR code and the use of Radio Frequency Identification (RFID)**. 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.¹⁰¹"

¹⁰¹ Addition suggested by FI "and include issues related to new technologies."

(14) (...) Annex I to Directive 91/477/EC (...) is amended as follows:¹⁰²

(a) part II is replaced by the following:

"For the purposes of this Directive, the following categories of firearms are set out:¹⁰³"

(i) point A and definition of firearms are deleted.

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

"6¹⁰⁴. Automatic firearms which have been converted into ssemi-automatic firearms;

¹⁰² Substantial reservation on (13) as a whole : SK.

¹⁰³ Suggested rewording by FR:

" Category A — Prohibited firearms

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

Category B — Firearms subject to authorization

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

Category C — Firearms subject to declaration

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

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

¹⁰⁴ Scrutiny reservation CZ, LT, PL transfer A6 to B7, Deletion from A: BG, EE, IT, LT, MT, SK.

7.¹⁰⁵ Semi-automatic firearms with one or more of the following characteristics:

a) firearms allowing the user to fire more than 21¹⁰⁶ rounds without reloading, if a magazine with a capacity exceeding 20 cartridges is connected to the firearm;

b) magazines capable of holding more than 20 rounds;

c) 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.

8. (...) ¹⁰⁷

(iii) in category B (...)

4. Semi-automatic long firearms whose magazine and chamber can together hold more than three but less than 22 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 (...) ¹⁰⁸;

Salute and acoustic weapons shall remain in the category¹⁰⁹ set out in Annex 1 , Part II, corresponding to the firearm from which they were converted.

6. Firearms from categories A, B, C [and D¹¹⁰] that have been deactivated¹¹¹ in accordance with Regulation (EU) 2015/2403 on deactivation¹¹²."

¹⁰⁵ Suggest to delete A7 and re-instate B7: BG, IT, LT, MT, SK, FI, CH.

EE: Semi automatic long firearms which are convertible to fully automatic operation by simple replacement of the release mechanism parts that define the firing mode with ones that allow automatic operation without removing or adding material to the semi-automatic firearm."

¹⁰⁶ ES suggestion ,...,six rounds with the exception made for firearms with calibre 22 (American 5,6 mm) used for sport shooting." CZ suggestion: equipped or capable to be equipped with ammunition belt feeding mechanism;"...,

¹⁰⁷ Suggested by AT, LT, CZ, HU, DE, PT, EE, MT, BE, IT, FR.

¹⁰⁸ FI: add replicas to next sentence: Salute and acoustic weapons as well as replicas, LT: move replicas to B

¹⁰⁹ LT: Move to Category B.

¹¹⁰ Suggest to classify D under C: CH, IE suggests to delete Cat D.

¹¹¹ Suggested to delete deactivated weapons from category C: UK; maintain: LT.

¹¹² Suggested by FR, EE, BE, IT, BG; AT: deletion suggested since no need anymore to classify weapons which cannot be reactivated

(b) (...) point B¹¹³ 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."

(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 solely¹¹⁴ 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) **point (c) is replaced by the following:**¹¹⁵

"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;

·

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive [**24**¹¹⁶ 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.

¹¹³ As indicated by DE the deletion of point A and the whole text of point B requires the deletion of the point itself.

¹¹⁴ Additions suggested by HU.

¹¹⁵ Suggestion by LT

¹¹⁶ PL, DK, CZ, SK, HU, LT, PT, RO, CY, MT. 24 months was proposed by SK, DE, PT, RO, HR, BG, **AT**. 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.

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